

AGENDA

COMMITTEE ON BILLS ON SECOND READING

June 20, 2006

**Aldermen Duval, Lopez,
Gatsas, Garrity, Pinard**

5:15 PM

**Aldermanic Chambers
City Hall (3rd Floor)**

1. Chairman Duval calls the meeting to order.
2. The Clerk calls the roll.
3. Ordinances:

“Amending Sections 33.024, 33.025 and 33.026 (Airport Financial Manager) of the Code of Ordinances of the City of Manchester.”

“Amending Sections 33.024, 33.025 and 33.026 (Canine Handler Supervisor) of the Code of Ordinances of the City of Manchester.”

“Amending Sections 33.024, 33.025 and 33.026 (Painter) of the Code of Ordinances of the City of Manchester.”

Gentlemen, what is your pleasure?

4. Ordinance:

“Amending 33.062, Part-Time Employees, of the Code of Ordinances of the City of Manchester.”

Gentlemen, what is your pleasure?

5. Ordinance amendments relating to building code changes submitted by the Building Commissioner:

“Repealing the 1993 BOCA National Plumbing Code as adopted in Section 151.01 of the City of Manchester Code of Ordinances and adopting the 2000 edition of the *International Plumbing Code* as amended by the State of New Hampshire Board of Licensing and Regulation of Plumbers.”

“Amending Chapter 1 Administration of the Building Code of the City of Manchester providing for increased fees.”

“Amending Chapter 150 Housing Code, Subsection 150.114 and Chapter 155 Zoning Code, Subsection 155.02 of the Code of Ordinances of the City of Manchester providing for increased fees.”

Gentlemen, what is your pleasure?

6. Petition for rezoning submitted by Attorney John Cronin on behalf of 127 Elm Street, LLC.

“Amending the Zoning Ordinance of the City of Manchester by extending the R-SM (Residential Suburban Multi-Family) zoning district to include property currently zoned IND (Industrial) located on the south side of Holt Avenue between East Industrial Park Drive and Waverly Street and known as Tax Map 716, Lot 38.”

Gentlemen, what is your pleasure?

TABLED ITEM

A motion is in order to remove the following item from the table for discussion.

7. Ordinance:
“Amending the Code of Ordinances of the City of Manchester by adding a new Chapter 54: Storm Water to Title V: Public Works.”
(Tabled 11/22/2005 pending further review by the Highway Department.)
8. If there is no further business, a motion is in order to adjourn.

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To the Board of Mayor and Aldermen of the City of Manchester:

The Committee on Human Resources/Insurance respectfully advises, after due and careful consideration, that it has approved Ordinance:

“Amending Sections 33.024, 33.025 and 33.026 (Airport Financial Manager) of the Code of Ordinances of the City of Manchester.”

providing for the establishment of a new class specification, Airport Financial Manager, and is recommending same be referred to the Committee on Bills on Second Reading for technical review.

(Unanimous vote; Alderman Garrity absent)

At a meeting of the Board of Mayor and Aldermen
held June 6, 2006 on a motion of Ald. O'Neil
duly seconded by Pinard the report
of the Committee was accepted and its recommendations
(adopted) ~~(denied)~~

L. D. Brewer
Clerk

Respectfully submitted,

L. D. Brewer

Clerk of Committee

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City of Manchester New Hampshire

In the year Two Thousand and Six

AN ORDINANCE

"Amending Sections 33.024, 33.025, & 33.026 (Airport Financial Manager) of the Code of Ordinances of the City of Manchester."

BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester, as follows:

SECTION 33.024 CLASSIFICATION OF POSITIONS be amended as follows:

Establish Airport Financial Manager, Class Code 9926

SECTION 33.025 COMPENSATION OF POSITIONS be amended as follows:

Establish Airport Financial Manager, Class Code 9926, Grade 24

SECTION 33.026 CLASS SPECIFICATIONS be amended as follows

Establish Airport Financial Manager, Class Code 9926, Grade 24
exempt

This Ordinance shall take effect upon its passage and all Ordinances or parts of Ordinances inconsistent therewith are hereby repealed.

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Proposed



City of Manchester, New Hampshire

Class Specification

This is a class specification and not an individualized job description. A class specification defines the general character and scope of responsibilities of all positions in a job classification, but it is not intended to describe and does not necessarily list every duty for a given position in a classification.

Class Title	Airport Financial Manager
Class Code Number	9926-24

General Statement of Duties

Manages Airport revenue, bond covenant compliance and accounting interface with City systems; plans, coordinates and supervises Airport accounting personnel; performs other related work as required.

Distinguishing Features of the Class

The principle functions of an employee in this class are to ensure that Airport revenue is managed in the most effective manner and to ensure that all Airport bond covenant compliance and Trustee requirements are met in a timely fashion. Work is performed under the supervision and direction of the Assistant Airport Director for Finance and Administration and the Airport Director, but considerable leeway is granted for the exercise of independent judgment and initiative. Supervision is exercised over the work of all financial staff employees and related personnel. The nature of the work performed requires that an employee in this class establish and maintain effective working relationships with other city employees, outside auditors, business organizations and the public. The principal duties of this class are performed in a general office environment.

Examples of Essential Work (illustrative only)

- Develops and manages the implementation of fiscal control measures and balancing mechanisms for the Airport's financial operations, including revenue analysis, cash balance determinations and weekly, monthly and annual reconciliation's;
- Researches and implements bond compliance measures for applicable statutory or regulatory requirements affecting cash flow or related public fiscal issues;

- Monitors the balancing of daily revenue, including the responsibility for all funds received;
- Handles all Airport responsibilities for long term debt;
- Processes timely transfers and principle interest payments for all of the Airport's long term debt instruments;
- Receives and evaluates Airport related competitive offerings as appropriate and recommends beneficial opportunities;
- Supervises, trains and evaluates employees involved in the Airport's financial operations, including direct supervision to ensure compliance with all applicable laws, regulations and general accounting standards;
- Assists the Airport Director and the Assistant Airport Director with the compilation and preparation of the Airport's Annual Audit Report and the accompanying Management Discussion and Analysis;
- Plays a major role in the preparation of the Airport's annual budget;
- Utilizes and manipulates the Airport's rates and charges financial model to assure optimum annual airlines rates and charges preparation; makes recommendations on same;
- Manages and maintains the Airport's Passenger Facility Charge (PFC) application and continuing requirements and collection process;
- Closely coordinates with the Assistant Airport Director for engineering and planning on all capital improvement projects; reviews and makes recommendations on the financial impacts of same;
- Closely coordinates with the Assistant Airport Director for Properties and Contract Management on all matters regarding the rental car Customer Facility Charge (CPC) and the accounting of same;
- Liaison with FAA regional and national personnel on all required financial compliance matters;
- Provides needed information and demonstrations concerning how to perform certain work tasks to new employees in the same or similar class of positions;
- Keeps immediate superiors and designated others fully and accurately informed concerning work progress, including present and potential work problems and suggestions for new or improved ways of addressing such problems;
- Attends meetings, conferences, workshops and training sessions and reviews publications and audio-visual materials to become and remain current on the principle practices and new developments in assigned work areas;

Required Knowledge, Skills and Abilities
(at time of appointment)

- Comprehensive knowledge of revenue management processes;
- Comprehensive knowledge of financial analysis and reporting;
- Comprehensive knowledge of Generally Accepted Accounting Principles;
- Comprehensive knowledge of data processing technology as applied to financial and accounting functions;
- Comprehensive knowledge of financial office procedures and practices;
- Comprehensive knowledge of accounts payable, cost accounting and payroll processes;

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- Comprehensive knowledge of FAA Pt.158 Passenger Facility Charge processes and procedures;
- Comprehensive knowledge of FAA financial reporting processes and procedures as they apply to airport revenue;
- Comprehensive knowledge of FAA Airport Improvement Program processes and procedures;
- Comprehensive knowledge of Airport/Airline Rates and Charges processes and procedures;
- Comprehensive knowledge of the Airport and the City budgeting processes and procedures;
- Thorough knowledge of current principles, practices and ethics used in receiving, disbursing, depositing and securing large amounts of public funds;
- Thorough knowledge of balance sheet and income statement transactions;
- Thorough knowledge of the principles and practices of personnel administration within the public sector;
- Ability to interpret accounting reports and records and to analyze accounting data for control and reporting purposes;
- Ability to handle confidential and administrative information with tact and discretion;
- Ability to supervise, train and evaluate the work of others;
- Ability to understand and follow oral and/or written policies, procedures and instructions;
- Ability to prepare and present accurate and reliable reports containing findings and recommendations;
- Ability to operate or quickly learn to operate a personal computer using standard or customized software applications appropriate to assigned tasks;
- Ability to use logical and creative thought processes to develop solutions according to written specifications and/or oral instructions;
- Ability to perform a wide variety of duties and responsibilities with accuracy and speed under the pressure of time-sensitive deadlines;
- Ability and willingness to quickly learn and put to use new skills and knowledge brought about by rapidly changing information and/or technology;
- Integrity, ingenuity and inventiveness in the performance of assigned tasks.

Acceptable Experience and Training

- Graduation from an accredited college or university with a Bachelor's Degree in Public Administration, Accounting, Finance or a related field; and
- Five years of experience in Accounting, including Airport and Municipal accounting, preferably with a CPA accreditation.

Required Special Qualifications

- None.

Essential Physical Abilities

- Sufficient clarity of speech and hearing or other communication capabilities, with or without reasonable accommodation, which permits the employee to communicate effectively;
- Sufficient vision or other powers of observation, with or without reasonable accommodation, which permits the employee to monitor assigned areas;
- Sufficient manual dexterity with or without reasonable accommodation, which permits the employee to operate a vehicle;
- Sufficient personal mobility and physical reflexes, with or without reasonable accommodation, which permits the employee to have access to all areas of the City.

Approved by: _____

Date: _____



CITY OF MANCHESTER

Human Resources Department

One City Hall Plaza
Manchester, New Hampshire 03101
Tel: (603) 624-6543 (V/TTY) • Fax: (603) 628-6065
www.ManchesterNH.gov



May 4, 2006

Alderman Ted Gatsas, Chairman
Human Resource and Insurance Committee
City of Manchester
One City Hall Plaza
Manchester, New Hampshire 03101

Re: Request for New Position/Class Spec. Airport

Dear Alderman Gatsas and Members of the Committee:

On behalf of Kevin Dillon, Airport Director, I am requesting the establishment of a new position and a new class specification. The new position/class specification that is proposed is an Airport Financial Manager, salary grade 24.

Mr. Dillon has studied his financial organization within the Airport. He has concluded that there needs to be a change in the duties and responsibilities of the Business Service Officer which will create a vacuum in the Financial Division. Specifically, if you will look at the proposed organization chart, there is a significant need for a high level financial person in the Property Management and Contracts Division. Therefore, Mr. Dillon would like your approval to move the Business Service Officer position to the Property Management Division. There is a need for a higher level financial position to include in depth knowledge of FAA financial requirements in the Division of Finance and Administration. As such, Mr. Dillon is proposing a new class specification which would meet the higher level of knowledge and experience that is much needed at the Airport to fulfill those requirements as well as to manage the day to day financial operations of the Airport.

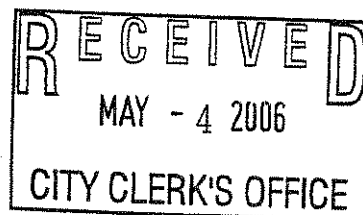
I am attaching a proposed class specification for your review and information. I am also enclosing a copy of a revised organizational chart.

Your favorable approval of these requests would be greatly appreciated.

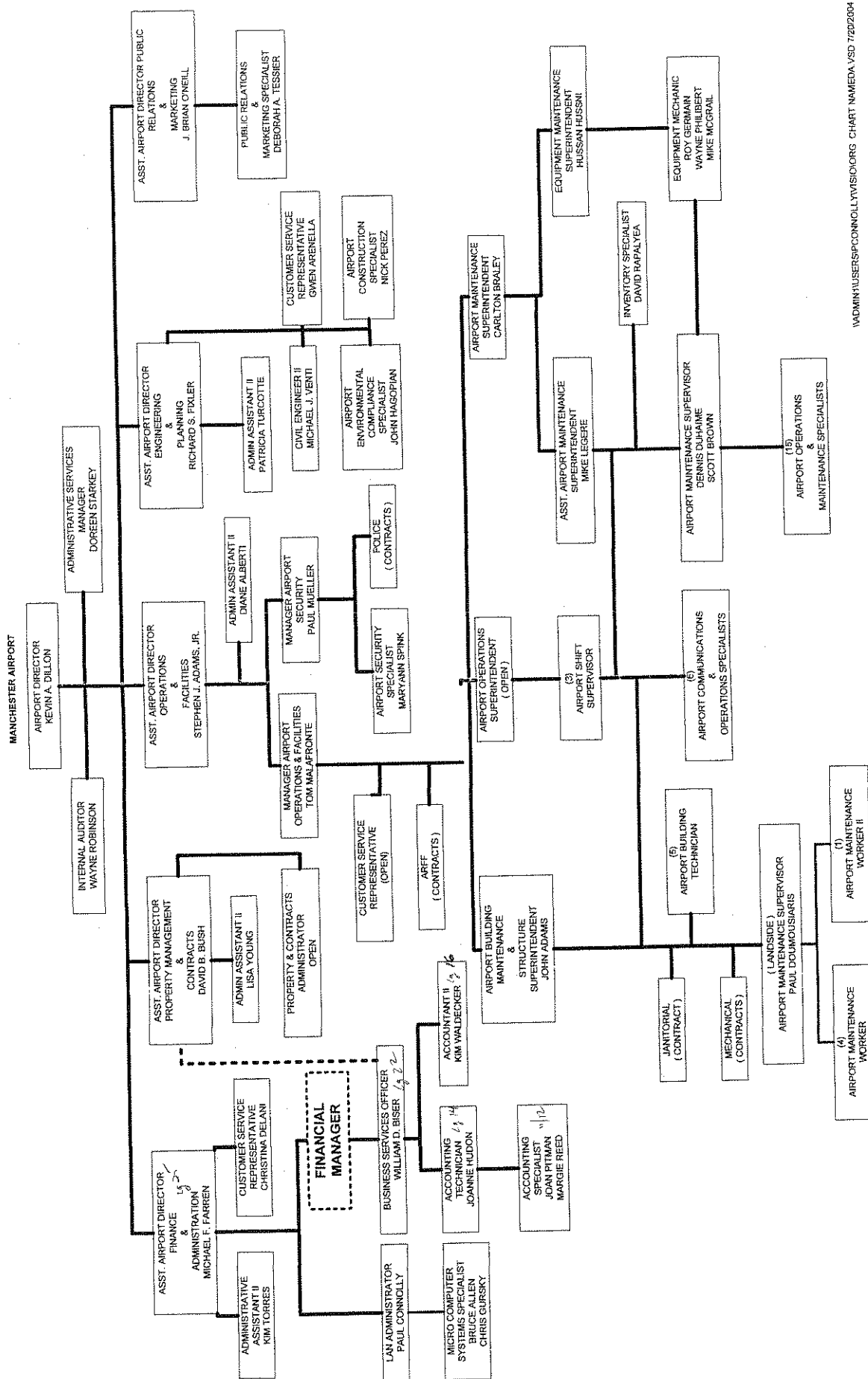
Respectfully submitted,

Virginia A. Lamberton
Human Resources Director

Attachments



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To the Board of Mayor and Aldermen of the City of Manchester:

The Committee on Human Resources/Insurance respectfully advises, after due and careful consideration, that it has approved Ordinance:

"Amending Sections 33.024, 33.025 and 33.026 (Canine Handler Supervisor) of the Code of Ordinances of the City of Manchester."

providing for the establishment of a new class specification, Canine Handler Supervisor, and is recommending same be referred to the Committee on Bills on Second Reading for technical review.

(Unanimous vote; Alderman Garrity absent)

At a meeting of the Board of Mayor and Aldermen
held June 6, 2006 on a motion of Ald. O'Neil
duly seconded by Ald. Pinard the report
of the Committee was accepted and its recommendations
(adopted) ~~(denied)~~

Respectfully submitted,

L. B. Bunker

Clerk of Committee

L. B. Bunker
City Clerk

3

City of Manchester New Hampshire

In the year Two Thousand and

six

AN ORDINANCE

“Amending Sections 33.024, 33.025 & 33.026 (Canine Handler Supervisor) of the Code of Ordinance of the City of Manchester.”

BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester, as follows:

SECTION 33.024 CLASSIFICATION OF POSITION be amended as follows:

Establish new classification, Canine Handler Supervisor

SECTION 33.025 COMPENSATION OF POSITION be amended as follows:

Establish Canine Handler Supervisor, Grade 17, non-exempt

SECTION 33.026 CLASS SPECIFICATIONS be amended as follows:

Establish new class specification, Class Code 9152, Canine Handler Supervisor (See attached).

This Ordinance shall take effect upon its passage and all Ordinances or parts of Ordinances inconsistent therewith are hereby repealed.

Proposed



City of Manchester, New Hampshire

Class Specification

This is a class specification and not an individualized job description. A class specification defines the general character and scope of responsibilities of all positions in a job classification, but it is not intended to describe and does not necessarily list every duty for a given position in a classification.

Class Title	Canine Handler Supervisor
Class Code Number	9152-17

General Statement of Duties

Responsible for supervising Canine Handlers and carries out administrative functions and record keeping in relation to the Canine Program.

Patrols airport facilities in the secure, sterile, and non-secure areas to promptly respond to threats that affect public safety or air carrier operations. Conducts canine training and/or patrols within the view of the public to provide a noticeable deterrent. Performs related work as required.

Distinguishing Features of the Class

The principal function of an employee in this class is to **serve as the lead worker for and to participate with Canine Handlers in** conducting emergency and routine security sweeps for the detection or deterrence of explosive threats in the airport environment. The work is performed under the supervision **and direction** of the Airport Security Manager **but leeway is granted for the exercise of independent judgment and initiative. Ensures and participates in the coordination** and conducts **of** regular canine training. Performs daily canine care and ensures the health and welfare of the canine in order to optimize team performance. This highly specialized class is a working **supervisory** level civilian canine handler position inspecting airport facilities for the Airport, air carriers, and tenants. This position requires specialty training as provided by the Transportation Security Administration (TSA) in the management of canines dedicated to explosives detection. This position is responsible for the ongoing and continuous training and care of the assigned dog **as well as ensuring care of team dogs**. The nature of the work performed requires that an employee in this class establish and maintain effective working relationships with other staff members, government agencies, law enforcement officials, Airport

tenants, other City employees and the public. The principal duties of this class are performed in both an indoor and outdoor work environment, often in extreme weather conditions. An employee in this class may also be required to handle and/or manage hazardous waste and if so, appropriate training will be provided annually.

**Examples of Essential Work
(illustrative only)**

- Supervises and performs a wide variety of tasks involved with the operation of a canine team in an airport setting;
- Monitors activities of the canine program to ensure safety, security and compliance with airport, state and federal regulations;
- Ensures that various reporting, training and response requirements of the program are met;
- Ensures that team members properly store and maintain training materials;
- Ensures that pertinent documentation is prepared and appropriate records are maintained;
- Ensures that proper scheduling is maintained;
- Maintains a presence on a rotating basis in operational areas of the airport during peak and non-peak hours.
- Maintains liaison with Airport Operations, Airport Law Enforcement Unit and Airport Fire Department as well as surrounding Law Enforcement Agencies and Canine Teams.
- Responsible for ongoing canine training as mandated by the TSA to include wide and narrow body aircraft, airline terminal and luggage, freight, warehouse and vehicles.
- Responsible for care and feeding of the canine, including maintaining the kennels in a sanitary condition.
- Maintains necessary training records as defined by the TSA. Operates an Airport Vehicle equipped with a kennel to transport the canine to various work sites and home.
- Uses explosive detection canines to inspect facilities, passengers, baggage, etc. for explosives.
- Enforces Airport security rules and regulations;
- Serves as a member of Airport emergency response team;
- Provides needed information and demonstrations concerning how to perform certain work tasks to new employees in the same or similar class of positions;
- Keeps immediate supervisor and designated others fully and accurately informed concerning work progress, including present and potential work problems and suggestions for new or improved ways of addressing such problems;
- Attends meetings, conferences, workshops and training sessions and reviews publications and audio-visual materials to become and remain current on the principles, practices and new developments in assigned work areas;
- Responds to citizens' questions and comments in a courteous and timely manner;
- Communicates and coordinates regularly with appropriate others to maximize the effectiveness and efficiency of interdepartmental operations and activities;
- Writes reports as required;
- Performs other directly related duties consistent with the role and function of the classification.

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**Required Knowledge, Skills and Abilities
(at time of appointment)**

Knowledge of:

- Techniques for dealing with the public and employees, in person, often where relations may be confrontational or strained;
- **Thorough knowledge of leadership and team building principles;**
- Record keeping principles and practices;
- Computer applications related to the work;

Skill in:

- Expressing verbal and physical enthusiasm to motivate the canine;
- Learning and applying information regarding airport procedures, topography, operations and facilities;
- Working without close supervision in both emergency and standard work situations;
- Assessing and prioritizing situations and determining appropriate response;
- Maintaining accurate records of training performed;
- Using initiative and independent judgment within established procedural guidelines;
- Contributing effectively to the accomplishment of team or work unit goals, objectives and activities;
- Speaking English effectively to communicate in person, on the radio or over the telephone;
- Accurately perceiving, soundly reasoning and correctly judging situations;
- Taking charge of and directing others in emergencies or other dangerous incidents;
- Writing accurate reports.
- Ability to learn and understand safe handling of explosives used in canine training according to TSA mandates;
- Ability to understand and follow principles and practices of canine handling techniques, motivation, care and feeding;
- Ability to learn and understand applicable laws, codes and regulations including Airport Security requirements;
- Ability to understand and follow safety principles, practices and equipment related to the work;
- Ability to train and handle a canine for the purposes of explosive detection;
- Ability to communicate effectively with others, both orally and in writing, using both technical and non-technical language;
- Ability to understand and follow oral and/or written policies, procedures and instructions;
- Ability to use logical and creative thought processes to develop solutions according to written specifications and/or oral instructions;
- Integrity, ingenuity and inventiveness in the performance of assigned tasks;
- Ability to learn and apply Airport security and safety rules and regulations;
- Ability to discern presence of hazards and/or potentially dangerous situations;

Acceptable Experience and Training

- Graduation from High School or possession of a GED; and
- One year of fulltime work experience related to the care, handling and training of working canine used in security/enforcement; or
- Associate's Degree in Criminal Justice or some law enforcement training preferred;
- Experience in an airport or security setting is desirable;
- Any equivalent combination of experience and training which provides the knowledge, skills and abilities necessary to perform the work.

Required Special Qualifications

- Must successfully complete the TSA Explosives Detection Handler Course during probation;
- Requires a three-year commitment upon successful completion of the course
- Must possess a valid New Hampshire Driver's License;
- Annual certification by the TSA Explosives Detection Handler program;
- Work extended shifts, which may include weekends and holidays;
- Take calls and be able to respond to the airport within a maximum of 45 minutes;
- On call status

Essential Physical Abilities

- Sufficient clarity of speech and hearing or other communication capabilities, with or without reasonable accommodation, which permits the employee to understand department and safety rules and regulations and work around high traffic areas;
- Capable of meeting all physical requirements specified in TSA guidelines for Explosive Detection Handler program;
- Must be able to stand and walk for extended periods of time; must be able to climb stairs.
- Must be able to care for the canine 24 hours a day, **at work and in home environment**;
- Work inside in noisy environments, and work outside in all weather conditions.
- Work with explosives;
- Exposure to unknown and potentially dangerous situations.

Approved by: _____ Date: _____



CITY OF MANCHESTER

Human Resources Department

One City Hall Plaza
Manchester, New Hampshire 03101-4000
Tel: (603) 624-6543 (V/TTY) • Fax: (603) 628-6065
February 8, 2006



Alderman Ted Gatsas, Chairperson
Human Resource and Insurance Committee
City of Manchester
One City Hall Plaza
Manchester, New Hampshire 03101

Re: Request for Reclassification & New Class Specification

Dear Alderman Gatsas and Members of the Committee:

On December 19, 2005, the Board of Mayor and Aldermen approved the establishment of three new positions at the Airport. The positions are titled Canine Handlers. The salary grade for this classification is sixteen (16).

Since that approval, Kevin Dillon, Airport Director, has requested that one of the new positions be reclassified upward in order to have a lead worker. As such, Mr. Dillon is requesting the establishment of a Canine Handler Supervisor class specification. The salary grade for this new classification is recommended to be at a salary grade seventeen (17).

The base salary for a Canine Handler, salary grade sixteen is \$33,895. The base salary for a Canine Handler Supervisor, salary grade seventeen is \$36,268.

I am attaching a copy of the new proposed class specification for a Canine Handler Supervisor for your review and approval.

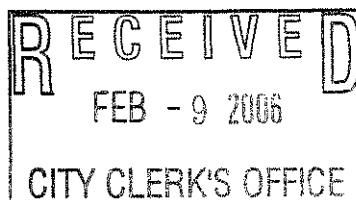
Your favorable approval of this request would be greatly appreciated.

Respectfully submitted,

Virginia A. Lamberton
Human Resource Director

Attachment

Cc: Kevin Dillon, Director



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To the Board of Mayor and Aldermen of the City of Manchester:

The Committee on Human Resources/Insurance respectfully advises, after due and careful consideration, that it has approved Ordinance:

"Amending Sections 33.024, 33.025 and 33.026 (Painter) of the Code of Ordinances of the City of Manchester."

providing for the establishment of a new class specification, Painter, and is recommending same be referred to the Committee on Bills on Second Reading for technical review.

(Unanimous vote; Alderman Garrity absent)

Respectfully submitted,

at a meeting of the Board of Mayor and Aldermen

held June 6, 2006 on a motion of Ald. O'Neil

duly seconded by Ald. Pinard the report

of the Committee was accepted and its recommendations

(adopted) ~~(declined)~~

L. M. Benner

Clerk of Committee

L. M. Benner
City Clerk

City of Manchester
New Hampshire
In the year Two Thousand and ^{five}

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AN ORDINANCE

"Amending Sections 33.024, 33.025 & 33.026 (Painter) of the Code of Ordinance of the City of Manchester."

BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester,
is follows:

SECTION 33.024 CLASSIFICATION OF POSITION be amended as follows:

Establish new classification, Painter

SECTION 33.025 COMPENSATION OF POSITION be amended as follows:

Establish Painter, Grade 13, non-exempt

SECTION 33.026 CLASS SPECIFICATIONS be amended as follows:

Establish new class specification, Class Code 5234, Painter, (See attached).

This Ordinance shall take effect upon its passage and all Ordinances or parts of Ordinances inconsistent therewith are hereby repealed.

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DRAFT



City of Manchester, New Hampshire

Class Specification

This is a class specification and not an individualized job description. A class specification defines the general character and scope of responsibilities of all positions in a job classification, but it is not intended to describe and does not necessarily list every duty for a given position in a classification.

Class Title	Painter
Class Code Number	5234-13

General Statement of Duties

Performs a variety of skilled painting work on city-owned property and equipment; performs directly related work as required.

Distinguishing Features of the Class

The principal function of an employee in this class is to perform various skilled painting work on municipal buildings. The work is performed under the supervision and direction of an assigned supervisor but considerable leeway is granted for the exercise of independent judgement and initiative. The nature of the work performed requires that an employee in this class establish and maintain effective working relationships with other City employees, outside contractors and the public. The principal duties of this class are performed in various indoor and outdoor work areas, with potential personal hazards.

Examples of Essential Work (illustrative only)

- Cleans and prepares materials to be painted by scraping, removing loose putty, filling cracks, removing broken glass;
- Paints the interior and exterior of buildings using brushes, spray guns, paint rollers or other painting tools;
- Repairs walls and ceilings;
- Applies sealant to exterior finishes and removes graffiti, applying chemical solvents as necessary;

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- Paints rain gutters, signs and a variety of equipment;
- Varnishes and paints furniture;
- Mixes and matches paints;
- Orders and picks up supplies and other materials;
- Drives vehicles as required to complete tasks, transporting ladders and scaffolding;
- Provides needed information and demonstrations concerning how to perform certain work tasks to new employees in the same or similar class of positions;
- Keeps immediate supervisor and designated others fully and accurately informed concerning work progress, including present and potential work problems and suggestions for new or improved ways of addressing such problems;
- Attends meetings, conferences, workshops and training sessions and reviews publications and audio-visual materials to become and remain current on the principles, practices and new developments in assigned work areas;
- Responds to citizens' questions and comments in a courteous and timely manner;
- Communicates and coordinates regularly with appropriate others to maximize the effectiveness and efficiency of interdepartmental operations and activities;
- Performs other directly related duties consistent with the role and function of the classification.

Required Knowledge, Skills and Abilities (at time of appointment)

- Thorough knowledge paints, varnishes, shellacs, fillers and graffiti removal chemicals;
- Thorough knowledge of methods, techniques, equipment, tools and materials used in painting practices;
- Thorough knowledge of brush and spray painting;
- Good knowledge of wall and ceiling repair;
- Good knowledge of safety practices used in painting and maintenance functions;
- Ability to work from ladders and scaffolding;
- Ability to communicate effectively with others, both orally and in writing, using both technical and non-technical language;
- Ability to understand and follow oral and/or written policies, procedures and instructions;
- Ability to use logical and creative thought processes to develop solutions according to written specifications and/or oral instructions;
- Ability to perform a wide variety of duties and responsibilities with accuracy and speed under the pressure of time-sensitive deadlines;
- Ability and willingness to quickly learn and put to use new skills and knowledge brought about by rapidly changing information and/or technology;
- Integrity, ingenuity and inventiveness in the performance of assigned tasks.

Acceptable Experience and Training

- Graduation from High School or possession of a GED; and
- Three years experience as a professional painter or as a journeyman painter.

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Required Special Qualifications

- Valid New Hampshire's Drivers License;

Essential Physical Abilities

- Sufficient clarity of speech and hearing or other communication capabilities, with or without reasonable accommodation, which permits the employee to communicate effectively;
- Sufficient vision or other powers of observation, with or without reasonable accommodation, which permits the employee to monitor and repair HVAC systems;
- Sufficient manual dexterity with or without reasonable accommodation, which permits the employee to operate hand and power tools;
- Sufficient personal mobility and physical reflexes, with or without reasonable accommodation, which permits the employee to work on and set up staging, ladders or other devices to safely work above ground level and access equipment and to be able to stoop, kneel, crouch, stand, walk, push, climb and grasp repetitively.

Approved by: _____

Date: _____

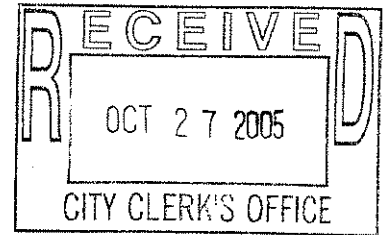


CITY OF MANCHESTER

Human Resources Department

One City Hall Plaza
Manchester, New Hampshire 03101-4000
Tel: (603) 624-6543 (V/TTY) • Fax: (603) 628-6065

October 12, 2005



Alderman William Shea, Chairperson
Human Resource and Insurance Committee
City of Manchester
One City Hall Plaza
Manchester, New Hampshire 03101

Re: Requests for New Classification and New Positions

Dear Alderman Shea and Members of the Committee:

On behalf of Tim Clougherty, Chief Facilities Manager, and Frank Thomas, Highway Director, I am requesting the establishment of a new class specification Painter, salary grade 13. In addition, I am requesting the establishment of two Painter positions.

Apparently years ago, the City had several painter positions. Those positions no longer exist. Due to the fact that there will be a need to maintain the new construction in the schools from the Design Build project, it has been determined that there will be a need to employ at least two full time Painters. Therefore, we have developed a new and updated class specification with the title of Painter. I am attaching a copy of the proposed class specification for your review and information. I am also attaching a copy of an updated organization chart for the Facilities Division. Funds are available in the Facilities budget to support these positions.

Your favorable approval of these requests would be greatly appreciated.

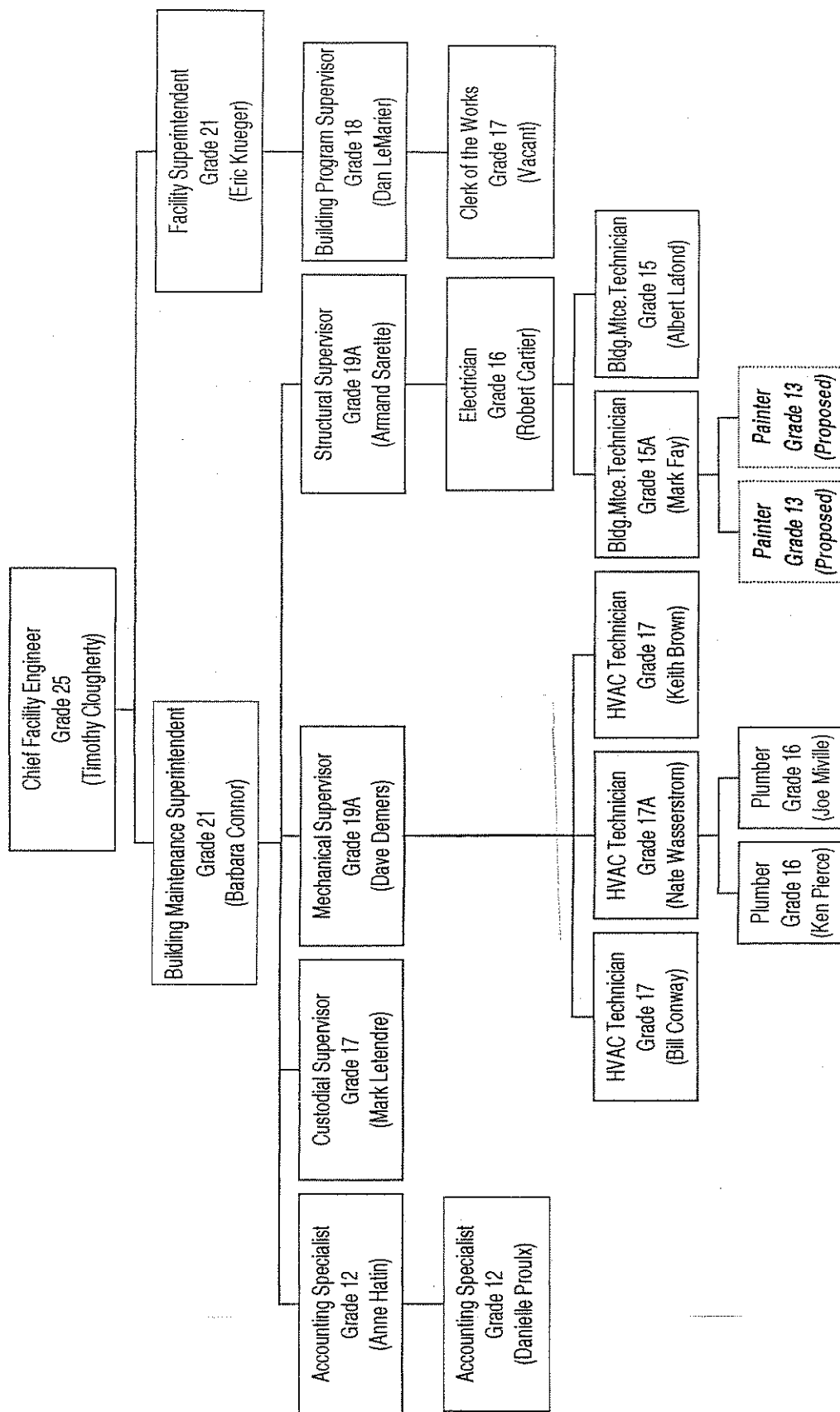
Respectfully submitted,

Virginia A. Lamberton
Human Resources Director

Attachments

Department of Highways

Facilities Division - Proposed New Job Classes



4

To the Board of Mayor and Aldermen of the City of Manchester:

The Committee on Human Resources/Insurance respectfully advises, after due and careful consideration, that it has approved Ordinance:

"Amending Section 33.062, Part-Time Employees, of the Code of Ordinances of the City of Manchester."

providing for a change that allows a part time employee to be granted a step increase upon satisfactory completion of 1,040 hours of work with additional step increases upon the satisfactory completion of 2,080 hours, and is recommending same be referred to the Committee on Bills on Second Reading for technical review.

(Unanimous vote, Alderman Garrity absent.)

Respectfully submitted,

at the meeting of the Board of Mayor and Aldermen

June 6, 2006 on a motion of Ald. DeVries

seconded by Duval the report

of the Committee accepted and its recommendations

(adopted) (amended)

L. H. Bernier

Clerk of Committee

L. H. Bernier
City Clerk

4

City of Manchester New Hampshire

In the year Two Thousand and Six

AN ORDINANCE

"Amending Section 33.062, Part-Time Employees, of the
Code of Ordinances of the City of Manchester."

BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester,
as follows:

I. Amend Section 33.062, Part-Time Employees, of the Code of Ordinances by deleting language stricken (---) and inserting new language as bolded (**bold**). Language of Section 33.062 not struck through or bolded remains unchanged.

§ 33.062 PART-TIME EMPLOYEES.

(A) Any employee occupying a position designated as FLSA exempt who is regularly employed on a continuing work schedule of less than 40 hours per week shall be compensated by multiplying the base pay rate by the number of regular hours worked per week.

~~(B) An employee occupying a position designated as FLSA non-exempt and who is employed on a part-time basis shall be paid on an hourly basis according to the provision of §33.063 of this subchapter.~~ An employee occupying a position designated as FLSA non-exempt and who is employed on a part-time basis shall be paid on an hourly basis.

(C) A part-time employee may be granted a step increase upon satisfactory completion of 1,040 hours of work. A part-time employee may be granted an additional step increase upon the satisfactory completion of 2,080 hours. Said employee will be eligible for subsequent step increases upon the satisfactory completion of each 2,080 hours of work until said employee reaches the maximum step in the salary grade to which the employee is assigned.

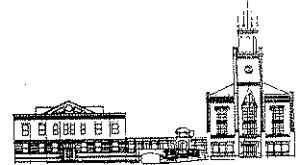
II. This Ordinance shall take effect upon its passage and all Ordinances or parts of Ordinances inconsistent therewith are hereby repealed.



Leon L. LaFreniere
Building Commissioner

CITY OF MANCHESTER DEPARTMENT OF BUILDINGS

One City Hall Plaza
Manchester, New Hampshire 03101
Tel: (603) 624-6475
Fax: (603) 624-6324



Matthew M. Sink
Deputy Bldg. Commissioner

Date: May 25, 2006
To: Leo R. Bernier, City Clerk
From: Leon L. LaFreniere, Building Commissioner
Subject: Proposed Changes to Permit Fee Schedules, Plumbing & Electrical Codes

Please find attached proposed building code changes designed to modify existing permit fee schedules, as well as to update the adopted editions of the Plumbing and Electrical codes currently enforced. I would request that these proposed changes be placed on the upcoming Board of Mayor and Aldermen agenda for their consideration and referral to appropriate committees and the setting of a public hearing.

Thank you for your assistance with this matter.

IN BOARD OF MAYOR & ALDERMEN

DATE: June 6, 2006

ON MOTION OF ALD. O'Neil

SECONDED BY ALD. Garrity

VOTED TO refer to the Committee on
Bills on Second Reading.

Leo R. Bernier
CITY CLERK

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City of Manchester New Hampshire

In the year Two Thousand and Six

AN ORDINANCE

"Repealing the 1993 BOCA National Plumbing Code as adopted in Section 151.01 of the City of Manchester Code of Ordinances and adopting the 2000 edition of the *International Plumbing Code* as amended by the State of New Hampshire Board of Licensing and Regulation of Plumbers."

BE IT ORDAINED, By the Board of Mayor and Alderman of the City of Manchester,
as follows:

I. Repealing the 1993 BOCA National Plumbing Code as adopted in Section 151.01 of the City of Manchester Code of Ordinances and adopting the 2000 edition of the *International Plumbing Code* as amended by the State of New Hampshire Board of Licensing and Regulation of Plumbers attached and included herein and as further amended as follows:

SECTION 1. Certain documents, three (3) copies of each which are on file in the office of the City Clerk of the City of Manchester being marked and designated as the *International Plumbing Code, 2000 Edition*, as published by the International Code Council, Inc., be and is hereby adopted as the *Plumbing Code* of the City of Manchester in the State of New Hampshire and hereby referred to, adopted, and made a part hereof, as if fully set out in this ordinance, with the additions, insertions, deletions and changes prescribed in Section 2 of this Ordinance.

SECTION 2. The following sections are hereby revised as follows:
(Note: Deleted text shows as struck through; new text shown italicized.)

Section 151.01

The following amendments shall be made part of the Plumbing Code:

2000 International Plumbing Code

Section 312.3 Drainage and Vent Air Test. Amend by adding to the second sentence:
"This pressure shall be held for a test period of at least 15 minutes *"by using a low pressure (0-5 lbs.) gauge"*."

Section 419 Urinals. Amend by adding a new subsection:
"419.4 Public and Employee Facilities" "Urinals without visible water trap seals shall not be permitted in public or employee restrooms."

Section 501.2 Water Heater as Space Heaters. Amend the first sentence to read as follows: "Where a combination potable water heating and space heating system requires water for space heating at temperatures higher than 140° F (60° C), a tempering valve shall be provided to limit the water supplied to the potable hot water distribution system to a temperature of ~~140° F (60° C)~~ 130° F (54.4° C) maximum."

City of Manchester New Hampshire

In the year Two Thousand and Six

AN ORDINANCE

"Repealing the 1993 BOCA National Plumbing Code as adopted in Section 151.01 of the City of Manchester Code of Ordinances and adopting the 2000 edition of the *International Plumbing Code* as amended by the State of New Hampshire Board of Licensing and Regulation of Plumbers."

BE IT ORDAINED, By the Board of Mayor and Alderman of the City of Manchester,
as follows:

Section 501.6 Water Temperature Control in Piping from Tankless. Amend the first sentence to read as follows:

The temperature of water from tankless water heaters shall be a maximum of 140° F (60° C) 130° F (54.4 C) when intended for domestic uses and shall be accomplished with the use of a mixing valve conforming to ASSE 1017.

Section 501.8 Temperature Controls. Amend to read as follows:

"All hot water storage and supply systems shall be set to a minimum of 140° F (60° C), and shall be equipped with automatic temperature controls and a mixing valve conforming to ASSE1017 to limit the water supplied to the potable hot water distribution system to a temperature of 130° F (54.4° C) maximum."

Section 504.1 Antisiphon Devices. Amend to read as follows:

"An approved means, such as a cold water "dip" tube with a hole at the top or a "A" vacuum relief valve installed in the cold water supply line above the top of the heater or tank shall be provided to prevent siphoning of any storage water heater or tank."

Table 605.4 Water Service Pipe. Amend line 5 to read as follows:

Copper or copper-alloy tubing (Type K, WK, L, WL, M OR WM).

Table 605.5 Water Distribution Pipe. Amend line 4 to read as follows:

Copper or copper-alloy tubing (Type K, WK, L, WL, M or WM).

Table 702.2 Underground Building Drainage and Vent Pipe. Delete lines 5 and 7 in their entirety and amend line 9 to read as follows:

Copper or copper alloy tubing (Type K, L, M or DWV).

Section 905.6 Vent for Future Fixtures. Amend by deleting entire paragraph and replacing it with the following:

"Within any habitable or occupiable spaces at the lowest level of a structure where plumbing fixtures are not installed, there shall be made available an accessible vent connection, not less than 2" in diameter, which is properly connected to the vent system to provide for future venting."

Section 912.2 Combination Drain & Vent System. Amending the first sentence to read as follows:

A combination drain and vent system shall not serve fixtures other than floor drains, standpipes, sinks and lavatories "and may be installed only when approved by the Authority having jurisdiction."

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City of Manchester New Hampshire

In the year Two Thousand and Six

AN ORDINANCE

“Repealing the 1993 BOCA National Plumbing Code as adopted in Section 151.01 of the City of Manchester Code of Ordinances and adopting the 2000 edition of the *International Plumbing Code* as amended by the State of New Hampshire Board of Licensing and Regulation of Plumbers.”

BE IT ORDAINED, By the Board of Mayor and Alderman of the City of Manchester,
as follows:

Section 917 Air Admittance Valves. Delete Sections 917.2 through 917.8 and amend 917.1 to read as follows:

“Vent systems utilizing air admittance valves shall *be allowed only where part of an engineered system designed by an engineer, licensed to practice in New Hampshire, or as approved by the Authority having jurisdiction.*”

II. This Ordinance shall take effect upon its passage.

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AMENDMENTS
To the
2000 International Plumbing Code
effective August 13, 2004

CHAPTER Plu 700 STATE PLUMBING CODE

PART Plu 701 NATIONAL CODE REFERENCE

Plu 701.01 International Plumbing Code. As per RSA 329-A:15, I and II, the board hereby adopts by reference the International Plumbing Code, 2000 Edition, as published in cooperation with the Building Officials and Code Administrators International, Inc., the International Conference of Building Officials, and the Southern Building Code Congress International, Inc., as amended by Plu 701.02.

Plu 701.02 New Hampshire Amendments to the International Plumbing Code. The following amendments shall apply to the code incorporated:

101.0 Title. These regulations shall be known as the *International Plumbing Code of New Hampshire* hereinafter referred to as "this code".

101.2 Scope. The provisions of this code shall apply to the erection, installation, alteration, repairs, relocation, replacement, addition to, use or maintenance of plumbing systems within this jurisdiction. The installation of fuel gas distribution piping and equipment, fuel gas-fired water heaters, and water heater venting systems shall be regulated by the *International Fuel Gas Code*. Provisions in the appendices shall not apply unless specifically adopted.

104.2 Rule-Making Authority. The code official shall have authority as necessary in the interest of public health, safety and general welfare to adopt and promulgate *written* rules and to interpret and implement the provisions of this code to secure the intent thereof and to designate requirements applicable because of local climatic or other conditions. Such rules shall not have the effect of waiving structural or fire performance requirements specifically provided for in this code, or of violating accepted engineering practice involving public safety.

106.6.2 Fee schedule. The fees for all plumbing work shall be as indicated in the *Administrative Rules Plu 306.01* and/or by local jurisdiction.

106.6.3 Fee refunds. Delete this section in its entirety.

108.4 Violation penalties. Any person who shall violate a provision of this code or shall fail to comply with any of the requirements thereof or who shall erect, install, alter or repair plumbing work in violation of the approved construction documents or directive of the code official, or of a permit or certificate issued under the provisions of this code, shall **be subject to the penalties prescribed by RSA 155-A:8 and RSA 329-A:18,II.**

108.5 Stop work orders. Upon notice from the code official, work on any plumbing system that is being done contrary to the provisions of this code or in a dangerous or unsafe manner shall immediately cease. Such notice shall be in writing and shall be given to the owner of the property, or, to the owner's agent, or to the person doing the work. The notice shall state the conditions under which work is authorized to resume. Where an emergency exists, the code official shall not be required to give a written notice prior to stopping the work. Any person who shall continue any work in or about the structure after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall comply with **RSA 155-A:8 and RSA 329-A:17.**

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305.6.1 Sewer depth. Building sewers that connect to private sewage disposal systems shall **conform to RSA 485-A relative to minimum depth below finished grade. Building sewers that connect to public sewers shall be a minimum depth of 4 feet below grade or adequately insulated to afford the same protection whenever a condition arises that the 4 feet cannot be attained.**

403.2 Separate facilities . Where plumbing fixtures are required, separate facilities shall be provided for each sex.

Exceptions

1. Separate facilities shall not be required for private facilities.
2. Separate employee facilities shall not be required in occupancies in which 15 or less people are employed.
3. Separate facilities shall not be required in structures or tenant spaces with a total occupant load, including both the employees and customers, of 15 or less.
- 4. Separate facilities shall not be required in mercantile occupancies in which the maximum occupant load is 50 or less.**
- 5. Separate facilities shall not be required in assembly occupancies that serve food with a total occupant load, including both employees and customers of less than 25.**

605.12.2 Solvent cementing. Joint surfaces shall be clean and free from moisture. A purple primer that conforms to ASTM F 656 shall be applied. Solvent cement not purple in color and conforming to ASTM D 2564 or CSA CAN/CSA-B137.3 shall be applied to all joint surfaces. The joint shall be made while the cement is wet and shall be in accordance with ASTM D 2855. Solvent-cement joints shall be permitted above or below ground.

701.2 Sewer required. Every building in which plumbing fixtures are installed and all premises having drainage piping shall be connected to a public sewer, where available, or an approved private sewage disposal system in accordance with **RSA 485-A:29-44.**

705.8.2 Solvent cementing. Joint surfaces shall be clean and free from moisture. A purple primer that conforms to ASTM F 656 shall be applied. Solvent cement not purple in color and conforming to ASTM D 2564, CSA CAN/CSA-B137.3, CSA CAN/CSA-B181.2 or CSA CAN/CSA-B182.1 shall be applied to all joint surfaces. The joint shall be made while the cement is wet and shall be in accordance with ASTM D 2855. Solvent-cement joints shall be permitted above or below ground.

705.14.2 Solvent cementing. Joint surfaces shall be clean and free from moisture. A purple primer that conforms to ASTM F 656 shall be applied. Solvent cement not purple in color and conforming to ASTM D 2564, CSA CAN/CSA-B137.3, CSA CAN/CSA-B181.2 or CSA CAN/CSA-B182.1 shall be applied to all joint surfaces. The joint shall be made when the cement is wet and shall be in accordance with ASTM D 2855. Solvent-cement joints shall be permitted above or below ground.

904.1 Roof extensions. All open vent pipes that extend through a roof shall be terminated at least **12 "** above the roof, except that where a roof is to be used for any purpose other than weather protection, the vent extension shall be run at least 7 feet (213 mm) above the roof.

City of Manchester New Hampshire

In the year Two Thousand and Six

AN ORDINANCE

"Amending Chapter 1 Administration of the Building Code of the
City of Manchester providing for increased fees"

BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester,
as follows:

I. Section 108 FEES of the Building Code of the City of Manchester is hereby amended as
follows: (Note: Old text shown as struck-through; new text shown italicized.)

108.8 Fee Schedule

1) Building Permits

- (B) For all other new buildings and structures, and additions to
existing buildings and structures, the permit fee shall be the
estimated cost of the work multiplied by ~~.008~~ *.010*.

8) Heating/Cooling Equipment

Adding a new sub-section:

E) Ventilation ductwork:

- 1) up to 400 CFM - \$15.00*
- 2) each additional 400 CFMs - \$10.00*

9) Plumbing

- A) For each fixture installed or replaced - ~~\$4.00~~ *\$5.00*

NOTE: The following shall be deemed to be separate fixtures:

- * Each water closet, lavatory, dishwasher, washing machine
connection, water filter, water cooler, garbage disposal,
sump pump, ejector pump, sterilizer or dental chair
- * Each combination fixture
- * Each 1, 2, or 3 compartment sink
- * Each 3 feet or fraction thereof of gang shower length
- * Each interior or exterior drain

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City of Manchester New Hampshire

In the year Two Thousand and Six

AN ORDINANCE

**“Amending Chapter 1 Administration of the Building Code of the
City of Manchester providing for increased fees”**

BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester,
as follows:

12) Elevators, Escalators, Amusement Devices & Special Equipment

A) Elevators

Adding a new subsection:

*(3) Initial compliance inspection for devices not
subject to State of New Hampshire permitting* *\$150.00*

II. This Ordinance shall take effect upon its passage.

City of Manchester New Hampshire

In the year Two Thousand and Six

AN ORDINANCE

"Amending Chapter 150 Housing Code, Subsection 150.114 and Chapter 155 Zoning Code, Subsection 155.02 of the Code Of Ordinances of the City of Manchester providing for increased fees."

BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester, as follows:

I. The following Chapters of the City of Manchester Code of Ordinances are hereby amended as follows: (Note: old text shown as struck-through, new text shown italicized.)

Chapter 150 Housing Code

Section 150.114 Fees; Exemptions

(A) The following fees shall be charged by the Department:

- 1) Application fee - ~~\$15~~ *\$25* per dwelling unit or rooming unit as part of each application for a certificate of compliance.
- 2) Inspection Fee
 - (a) Dwelling unit - ~~\$25.00~~ *\$35.00* per unit for each inspection to determine compliance;
 - (b) Rooming unit - ~~\$10.00~~ *\$15.00* per room for each inspection to determine compliance;
- 3) Re-inspection. For reinspection of a building:
 - (b) 2nd and subsequent reinspections - ~~\$20.00~~ *\$25.00*
 - (c) In addition, after a second reinspection, the fee shall increase by ~~\$5.00~~ *\$10.00* for each subsequent reinspection
- 4) Unaccompanied inspection or reinspection - ~~\$30.00~~ *\$50.00* for each inspection or reinspection at which a building owner or his representative is not present unless such arrangement has been agreed to in advance
- 5) Transfer of Ownership - ~~\$25.00~~ *\$35.00* per certificate to assign a certificate of compliance to a new owner
- 6) Replacement of certificate and permit - ~~\$15.00~~ *\$25.00* per document for replacing an existing certificate of compliance, interim rental permit or transfer permit
- 7) Transfer Permit. Each application for a transfer permit:
 - a) One to four dwelling or rooming units - ~~\$100.00~~ *\$125.00*
 - b) Five to eight dwelling or rooming units - ~~\$200.00~~ *\$250.00*
 - c) in addition, each unit in excess of eight units ~~\$15.00~~ *\$25.00* per unit

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City of Manchester New Hampshire

In the year Two Thousand and Six

AN ORDINANCE

"Amending Chapter 150 Housing Code, Subsection 150.114 and Chapter 155 Zoning Code, Subsection 155.02 of the Code Of Ordinances of the City of Manchester providing for increased fees."

BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester,
as follows:

8) Special Inspections -- ~~\$60.00~~ *\$100.00* for each inspection and each additional unit over 4 units -- ~~\$15.00~~ *\$25.00*

9) Extended Terms -- ~~\$25.00~~ *\$50.00* per certificate to extend the expiration date of a certificate pursuant to an action of the Board.

Chapter 155 Zoning Code

155.02 Fees for Appeal to Board of Adjustment

The following fees are hereby established for ~~variance applications and special exception Zoning Board of Adjustment~~ applications:

Change of use variance -- ~~\$250~~ *\$350*
Multi-use variance -- ~~\$250~~ *\$350*
Planned developments -- ~~\$250~~ *\$350*
Nonconforming subdivisions -- ~~\$250~~ *\$350*
Unaccepted way -- ~~\$80~~ *\$350*
All others -- ~~\$80~~ *variances, special exceptions, administrative appeals, equitable waivers - \$150*
~~Resubmittal by applicant - \$10~~
~~Rehearing by abutter - \$80 and subsequent application requests - \$35~~
~~Rehearing by applicant -- same as original appeal~~

II. This Ordinance shall take effect upon its passage.

John G. Cronin
Admitted in NH and MA

**CRONIN &
BISSON, P.C.**



ATTORNEYS AT LAW

722 Chestnut Street, Manchester, NH 03104
Phone: (603) 624-4333 Fax: (603) 623-5626
www.croninbisson.com

April 20, 2006

Board of Mayor and Aldermen
c/o Leo Bernier, City Clerk
City of Manchester
One City Hall Plaza
Manchester, NH 03101

Re: Zoning Change
603 Holt Avenue
Map 716, Lot 38

IN BOARD OF MAYOR & ALDERMEN

DATE: June 6, 2006

ON MOTION OF ALD. O'Neil

SECONDED BY ALD. Pinard
refer to the Committee

VOTED TO on Bills on Second Reading.


CITY CLERK

Dear Board of Mayor and Aldermen:

Enclosed herewith please find the Petition for Rezoning, together with the filing fee, concerning the above referenced property on behalf of our client, 127 Elm Street, LLC. The petition seeks rezoning of the subject property to residential use.

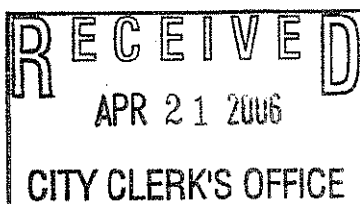
Please let us know if you require further information, or have any questions. Thank you for your consideration.

Sincerely yours,
CRONIN & BISSON, P.C.

By:


John G. Cronin

JGC:lma
Enclosure



STATE OF NEW HAMPSHIRE
CITY OF MANCHESTER

127 Elm Street, LLC

PETITION FOR REZONING

NOW COMES the Petitioner, 127 Elm Street, LLC, by and through its attorneys, Cronin & Bisson, P.C., and petitions the Board of Mayor and Aldermen of the City of Manchester, in accordance with Article 16 of the City of Manchester Zoning Ordinance, to amend the Zoning Map regarding a certain parcel of land located at 603 Holt Avenue, County of Hillsborough, City of Manchester and identified as Map 716, Lot 38 in the tax records for the City of Manchester. In support hereof, Petitioner states as follows:

1. Lorraine and Edwin Hartshorn are the owners of record of a parcel of undeveloped real property located at 603 Holt Avenue and identified as Map 716, Lot 38 in the tax records of the City of Manchester (the "Property"). Edwin Hartshorn is deceased, leaving Lorraine Hartshorn as the sole owner.
2. The Property is approximately three acres and is located in the industrial zone.
3. Although zoned industrial, the Property is located directly across Holt Avenue from a residential condominium development.
4. The property elevation changes dramatically from abutting industrial zoned properties and lies in close proximity to wetland areas.
5. The Petitioner, 127 Elm Street, LLC, as agent for the owner, seeks to change the zoning classification for the property from industrial to residential with the ultimate goal of construction of a residential condominium development similar to the existing development on Holt Avenue. (A letter of authorization from the record owner is attached as Exhibit A).
6. A copy of the City tax map showing the Property as situated in the industrial zone is attached as Exhibit B.

7. The proposed change would have little impact within the district since the Property's topography and proximity to wetlands and residential development make it difficult to develop for industrial use. In addition, a residential condominium development would be more consistent with the existing area.

8. The current zoning of "Industrial" is not compatible with the existing neighborhoods adjacent to the subject property. If the property were developed for an industrial use, it would create a detrimental impact of the neighboring residential properties.

9. Based on the anticipated market for residential condominiums in this area of the City and the number of units which could potentially be developed on the site, the proposed change should ultimately be tax positive for the City. Since the City is already servicing the existing residential condominiums in the area, there will likely be little net increase in the demand for City services as a result of the proposed change in zoning classification.

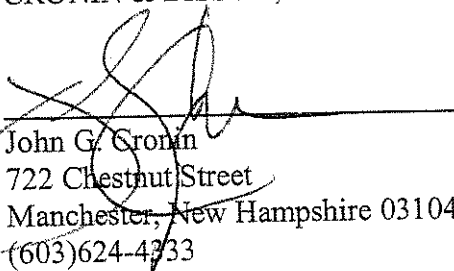
10. The names, addresses, tax map number and lot number of all abutting property owners and all properties on the opposite side of Holt Avenue is attached as Exhibit C.

11. In light of the support set forth in this petition, the Petitioner respectfully requests that the Honorable Board of Mayor and Aldermen approve this request to change the Zoning Map classification of 603 Holt Avenue to residential.

Respectfully submitted,

127 Elm Street, LLC
By its Attorneys,
CRONIN & BISSON, P.C.

By:


John G. Cronin
722 Chestnut Street
Manchester, New Hampshire 03104
(603)624-4333

Dated: April 20, 2006

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Ms. Lorraine Hartshorn
Mr. Edwin Hartshorn

April 18, 2006

To Whom it May Concern:

We, the undersigned, being owners of the real property sometimes referred as Map 716, Lot 38, located on Holt Avenue in Manchester, New Hampshire, hereby grant our authority to 127 Elm Street, LLC to take any and all action required or deemed necessary to re-zone the property from "Industrial" to Residential."

Thank you.

Sincerely,

Lorraine Hartshorn
Lorraine Hartshorn

deceased
Edwin Hartshorn



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Abutter List

Map 716 Lot 0038
603 Holt Avenue
Manchester, NH

Map / Lot	Property Owner	Property Owner Address
Subject Property 716 / 0038	Lorraine Hartshorn	21 Mammoth Road Hooksett, NH 03106
716 / 0036A	Boy Scouts of America	571 Holt Avenue Manchester, NH 03109
716 / 0036B	Boy Scouts of America	571 Holt Avenue Manchester, NH 03109
717 / 0013A	Arcidy Realty	520 E. Industrial Park Dr. Manchester, NH 03109
717 / 0001A	Harvey Industries Inc.	1400 Main Street Waltham, MA 02451
478 / 0002	Eastgate Apt. Assoc. Ltd. Partnership	540 N. Commercial Street Manchester, NH 03101
478 / 0003L	Eastwood Homeowner's Assoc. c/o David Hamilton, President	31 Eastwood Way Manchester, NH 03109
478 / 0003Q	Eastwood Homeowner's Assoc. c/o Sheryl Petra, Chairperson & Treasurer	53 Eastwood Way Manchester, NH 03109
478 / 0003G	Eastwood Homeowner's Assoc. c/o Amber Heroux, Chairperson	32 Eastwood Way Manchester, NH 03109



Robert S. MacKenzie, AICP
Director

CITY OF MANCHESTER

Planning and Community Development

Planning
Community Improvement Program
Growth Management



Staff to:
Planning Board
Heritage Commission
Millyard Design Review Committee

May 10, 2006

Mr. Leo Bernier, City Clerk
City of Manchester
One City Hall Plaza
Manchester, NH 03101

Re: *Technical Review, Rezoning Petition – Holt Avenue*

Dear Mr. Bernier:

In accordance with the procedures on rezoning requests, the following information is being provided to your office in consideration of a rezoning request filed by agents for the owners of property on Holt Avenue (Lot 716-38). The subject parcel involves one parcel (that is proposed to be subdivided) on the southern side of Holt Avenue between East Industrial Park Drive and Waverly Street. It is 3.9+ acres in size, with a single-family residence. The subject property is currently zoned *Industrial (IND)*. The applicant is requesting that the zoning district be changed to Multi-family Residential (*R-SM*).

Presently, the land across the street from the site is zoned R-SM and includes townhouse units including Eastgate Apartments. As such, the proposal would be an extension of an existing zoning district rather than the creation of a new one. The proposal for the land, if rezoned, would be for townhouse units, which are permitted in the R-SM district. The 1993 Master Plan for the City of Manchester does not show the existing R-SM land in this area or proposed expansions of it.

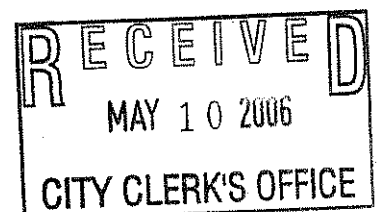
From a technical perspective, the petition may be forwarded to the Board of Mayor and Aldermen for consideration. Additional information may be required prior to the hearing as identified in 16.02 of the Manchester Zoning Ordinance. Consistent with the policy for rezoning petitions, the planning staff is providing a copy of the petition to the Planning Board, the Building Department and the Office of the City Solicitor for comment. Given that the land to be rezoned is currently Industrial, I have also begun discussions with the Director of Economic Development to gain his perspective on the change.

Please let me know when this will be referred to the Board of Mayor and Aldermen for consideration so that I will be available to answer questions.

Sincerely,

Robert S. MacKenzie, AICP
Planning Director

C: Planning Board
Office of the City Solicitor
Building Department
Economic Development Office
One City Hall Plaza, Manchester, New Hampshire 03101
Phone: (603) 624-6450 Fax: (603) 624-6529
E-mail: planning@ManchesterNH.gov
www.ManchesterNH.gov



b

Short Title
Rezoning Petition
Holt Avenue

“Amending the Zoning Ordinance of the City of Manchester by extending the R-SM (Residential Suburban Multi-Family) zoning district to include property currently zoned IND (Industrial) located on the south side of Holt Avenue between East Industrial Park Drive and Waverly Street and known as Tax Map 716, Lot 38.”

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FOUGERE PLANNING & DEVELOPMENT Inc.

Mark J. Fougere, AICP

253 Jennison Road Milford, New Hampshire 03055
phone: 603-315-1288 fax: 603-249-9314
email: mfougere@adelphia.net

May 28, 2006

Attorney John Cronin
Cronin & Bisson, PC
722 Chestnut Street
Manchester, NH 03104

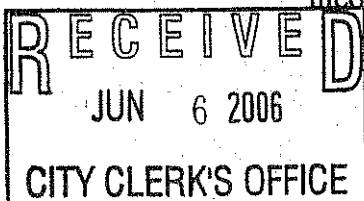
Dear Attorney Cronin,

At your request, I have reviewed the Petition For Rezoning submitted by 127 Elm Street, LLC to rezone a three acre parcel located at 603 Holt Avenue from Industrial to R-SM (Residential Suburban Multi-family District). Relative to this matter, I offer the following comments:

Fringe areas between zoning districts, the boundary line separating two divergent zoning districts, can often create conflicts between two adjoining non-compatible land uses. This certainly is the case with the zoning in this neighborhood, with the existing Industrial zone lying to the south and east of the subject property and residential zones R-SM and R-1B lying to the north. This residential neighborhood has a mix housing types, including single family homes and townhome condominiums. The entrance to an existing condominium neighborhood lies directly across the street from the subject parcel.

The development of this property for an industrial use could result in a number of negative neighborhood impacts, including:

- The introduction of industrial truck traffic into the westerly portion of Holt Avenue, which is now primarily a residential street. Although two industrial buildings lie at the corner of East Industrial Park Drive and Holt Avenue, their primary access is from East Industrial Park Drive. At this time, it is not necessary for industrial related traffic to enter this portion of Holt Avenue. If this site was developed with an industrial use, tractor trailer trucks, delivery vehicles and other incompatible traffic would have to enter this existing residential area. In addition,



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the potential exists for this industrial related traffic to take a short cut out of the neighborhood and exit the area via Waverly Street, which contains many single family homes.

- Industrial related noise (equipment, exhaust, air conditioners, loud speakers, back up alarms) could also be a factor. Many such uses have multiple shift operations, with some running 24 hours a day. This type of operation will impact the adjoining residential uses, degrading the quality of life for those homeowners. In addition, as a steep grade exists on Holt Avenue as it approaches the site, tractor trailer noise will be exacerbated as the trucks struggle to drive up the slope and brake heavily as they go down.
- The slope of the site creates a problem for industrial uses and would require extensive regrading in order to create a level and expansive building pad site. This grading would require that a majority of the existing trees on the site be removed.

The proposed rezoning request would create a compatible neighbor to the existing abutting residential uses. The proposed townhome condominium development that would occur on the subject site is more in keeping with the residential character of this area of Holt Avenue. These projects are fiscally positive and generate few demands on municipal services. Generally, private condominiums take care of their own trash, road plowing and other maintenance issues. In addition, townhomes generate few school age children and therefore impacts to the school system will be minimal. A residential development will be able to blend in with the existing site topography much easier than an industrial use, allowing for the preservation of mature trees and less land disturbance.

The proposed rezoning request will have a positive impact on the neighborhood and will not create a fiscal drain to the City. The site is more compatible to residential uses than industrial uses, given the sites topography and location. Industrial related traffic is not appropriate for this area of Holt Avenue, given the high number of existing homes lying off of Holt Avenue and Waverly Street.

Sincerely,



Mark J. Fougere, AICP



May 30, 2006

John Cronin, Esq.
Cronin & Bisson, P.C.
722 Chestnut St.
Manchester, NH 03104

Re: Zoning Change
603 Holt Ave., Manchester, NH
Tax Map 716, Lot 38

Dear Attorney Cronin:

Pursuant to your request, I have read the application for zoning change for the property known as 603 Holt Ave., Manchester, NH. The subject property consists of a single family home constructed in 1953, according to the city tax card. The home is sited on 3.9 acres and is in an industrial zone. The house appears to be sited at the northwest area of the site, allowing area for development around it. The home is on a reasonably level part of the site, but as one moves eastward on the site, the downslope becomes steeper.

Immediately to the west of the subject property is a property having a commercial/industrial use. A short distance to the east of the subject along Holt Ave. is East Industrial Park Dr., along which there is extensive industrial property usage. However, to the north of the subject is property in a residential zone, inclusive of a residential condominium complex (within view of the subject) and a subdivision of older single family homes.

I have studied the properties in the immediate area. In order to develop an opinion as to whether the presence of residential condominiums would have negative impact on value and/or marketability of surrounding properties, I have reviewed a number of sales of homes that abut or are in close proximity to condominium complexes, and compared those homes to sales of similar homes that are not in close proximity to condominiums. I was unable to discern a difference in either value or marketability.

It is my opinion that the proposed use of the subject property, that of residential condominiums, would not have any negative impact on the value or marketability of surrounding properties. Importantly, a small complex of residential condominiums known as Eastwood Condominiums already exists in the neighborhood. Further, it is my opinion that the construction of commercial/industrial buildings on the subject site may cause diminution of value of abutting and nearby residential properties, including Eastwood Condominiums.

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I will be happy to discuss this report with you. Please do not hesitate to call me if you have any questions.

Respectfully Submitted,

A handwritten signature in cursive script, appearing to read "Mark H. McKeon".

Mark H. McKeon
President, NHCR-03



**City of Manchester
Welfare Department**

510 Chestnut Street
Manchester, NH 03101-1412
(603) 624-6484 FAX (603) 624-6423
www.ci.manchester.nh.us

Paul R. R. Martineau
Commissioner

January 20, 2006

Zoning Board of Adjustment
Attn: Mr. Steven Freeman, Chairman
One City Hall Plaza
Manchester, N. H. 03101

Dear Mr. Freeman and Board Members:

I am writing the Zoning Board of Adjustment to support a variance request for William A. Bevelaqua to build 33 units of townhouse condominium housing on Holt Avenue. The hearing on this proposal is scheduled for February 2, 2006.

I was a member of the Mayor's Task Force on Housing along with numerous other community leaders. The Task Force produced a 20 page report in the summer 2002 called "ACTION STRATEGY for HOUSING". I am aware that this report was given to all the Board members at that time.

The primary impetus of the Task Force was seeking ways to increase workforce (affordable) housing. One section in the report under REGULATORY speaks about Zoning Ordinances and what can be done to encourage workforce housing by addressing regulatory areas in City government. This project called "Hartshorn Way" engenders the spirit of the Task Force goal of increasing workforce housing.

In these difficult budgetary times, it is important for Manchester to maintain its vitality and business friendly atmosphere through innovative housing approaches.

I respectfully request the Board consider approving this application with the knowledge that this project will encourage, with your assistance, workforce housing development in Manchester.

Sincerely,

Paul R. R. Martineau
Welfare Commissioner

Cc: Mr. William A. Bevelaqua.

To the Board of Mayor and Aldermen of the City of Manchester:

The Committee on Bills on Second Reading respectfully recommends, after due and careful consideration, that an Ordinance:

“Amending the Code of Ordinances of the City of Manchester by adding a new Chapter 54: Storm Water to Title V: Public Works.”


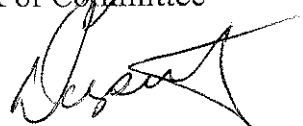
be referred to a public hearing to be held on Monday, September 26 at 5:30 PM in the Aldermanic Chambers.

(Unanimous vote)

At a meeting of the Board of Mayor and Aldermen
held Sept 6, 2005 on a motion of Ald. O'Neil
seconded by Ald. Smith the report
of the Committee was accepted and its recommendations
(~~adopted~~) (~~denied~~)

City Clerk

Respectfully submitted,


Clerk of Committee




**City Of Manchester
Department of Highways
Environmental Protection Division**

300 Winston Street
Manchester, New Hampshire 03103-6826
(603) 624-6595 Fax (603) 628-6234

Frank C. Thomas, P.E.
Public Works Director

Kevin A. Sheppard, P.E.
Deputy Public Works Director

IN BOARD OF MAYOR & ALDERMEN

DATE: July 19, 2005

ON MOTION OF ALD. O'Neil

SECONDED BY ALD. Garrity

#05-012-EPC

refer to the Committee on

VOTED TO Bills on Second Reading.

L. Bernier
CITY CLERK

June 29, 2005

Leo Bernier
City Clerk
1 City Hall Plaza
Manchester, NH 03101

Re: Storm Water Ordinance Passage

Dear Leo:

The Department of Highways has finalized the Storm Water Ordinance and Rules & Regulations as required by the EPA's, Storm Water Management Plan. These documents have had all the required internal reviews and comments. They are now ready for the Ordinance adoption process. Could you please put this Ordinance on the agenda for the next Board of Mayor and Aldermen meeting? Representatives from Highway Department will be available to answer any questions.

There will need to be at least one public hearing during the approval process as this is a requirement of the EPA. A copy of the draft Ordinance and Rules & Regulations are attached for duplication and distribution.

The actions taken to date by the Highway Department are presented below:

- March 10, 2003 the EPA implemented the Storm Water Management Program (SWMP). Forty-five communities in NH were required to implement the program.
- The Program requires six-minimum controls (1. Education & Outreach, 2. Public Participation, 3. Illicit Discharges, 4. Runoff Controls, 5. Post-construction storm water management, 6. Pollution Prevention in Municipal Operations). Each minimum control has associated tasks;
- Control three (Illicit Discharges), task number one (Develop a Storm Water Ordinance), requires the development and adoption of a Storm Water Ordinance. The required implementation date is 7/30/05 (this is for finalization of a draft for presentation to the Board of Mayor & Aldermen);

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Storm Water Ordinance Passage

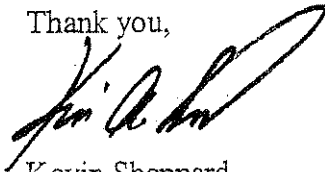
Page 2

June 29, 2005

- There was an initial meeting with the Planning Department in the fall of 2003 (Terry Harlacher & Louise Donnington) to explain storm water requirements and receive planning's input and perspective on the Ordinance development. This was followed by a meeting with the Planning Board with a slide presentation of the EPA requirements;
- The Highway Department staff and EPD had four internal meetings to work on the draft ordinance. The consensus was to have a small Ordinance that referenced an extensive set of Rules & Regulations. This route was chosen as it will be easier to update Rules & Regulations as the program matures and Federal regulations change;
- The City Solicitor has reviewed the Ordinance and Rules & Regulations, given his recommendations and these were incorporated into both documents;
- All finalized changes were emailed to the Building, Planning, Health, Highway, Parks & Rec and the Urban Ponds representative to make final comment;
- Final passage date of an Ordinance is required by 7/30/06, otherwise EPA may take enforcement action against the City for failure to comply with the approved Storm Water Management Program;
- A meeting and overview of the documents was done with the Highway Commission on June 13, 2005 to explain the requirements behind the Ordinance and Rules & Regulations.

Rick Cantu, of EPD, is the Storm Water Coordinator and is coordinating the efforts to finalize the adoption of this Ordinance and the Rules and Regulations. Please advise him of the meetings that will need to be attended and what you would like him to include in the presentations.

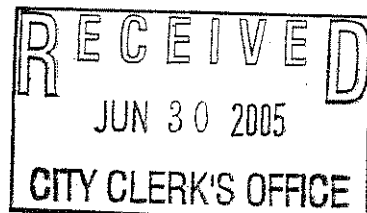
Thank you,



Kevin Sheppard

Cc: Thomas W. Seigle
Rick Cantu

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City of Manchester New Hampshire

In the year Two Thousand and Six

AN ORDINANCE

"Amending the Code of Ordinances of the City of Manchester by adding a new Chapter 54: Storm Water to Title V: Public Works."

BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester, as follows:

CHAPTER 54: STORM WATER

Section

- 54.01 Purpose
- 54.02 Definitions
- 54.03 Administration
- 54.04 Prohibited discharges
- 54.05 Permit procedures and requirements
- 54.06 General Permit Provisions
- 54.07 Eligibility
- 54.08 Waivers
- 54.09 Storm water design and management standards
- 54.10 Industrial activity discharges
- 54.11 Access and inspection of properties and facilities
- 54.12 Notification of accidental discharges and spills
- 54.13 Violations, enforcement and penalties

§ 54.01 PURPOSE.

The purpose of this chapter is to:

- (A) Protect, maintain, and enhance the environment of the City of Manchester, New Hampshire and the public health, safety and the general welfare of the citizens of the City, by controlling discharges of pollutants to the City's storm water system and to maintain and improve the quality of the receiving waters into which the storm water outfalls flow, including, without limitation, lakes, rivers, streams, ponds, wetlands, and groundwater of the City.
- (B) Enable the City of Manchester to comply with the National Pollution Discharge Elimination System permit (NPDES) and applicable regulations, 40 CFR §122.26 for storm water discharges.
- (C) Allow the City of Manchester to exercise the powers granted by the State of New Hampshire through ordinance or resolution to:
 - (1) Exercise general regulation over the planning, location, construction, and operation and maintenance of storm water facilities in the City, whether or not owned and operated by the City;

City of Manchester New Hampshire

In the year Two Thousand and Six

AN ORDINANCE

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- (2) Adopt any rules and regulations deemed necessary to accomplish the purposes of this statute, including the adoption of a system of fees for services and permits;
- (3) Establish standards to regulate the quantity of storm water discharged and to regulate storm water contaminants as may be necessary to protect water quality;
- (4) Review and approve plans for storm water management in proposed subdivisions or commercial developments;
- (5) Issue permits for storm water discharges, or for the construction, alteration, extension, or repair of storm water facilities;
- (6) Suspend or revoke permits when it is determined that the permittee has violated any applicable ordinance, resolution, or condition of the permit;
- (7) Regulate and prohibit discharges into storm water facilities of sanitary, industrial, or commercial sewage or waters that have otherwise been contaminated; and
- (8) Expend funds to remediate or mitigate the detrimental effects of contaminated land or other sources of storm water contamination, whether public or private.

§54.02 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BEST MANAGEMENT PRACTICES. Physical, structural, and/or managerial practices that, when used individually or in combination, prevent or reduce pollution of water, that have been approved by the City of Manchester, and that have been incorporated by reference into the Storm Water Rules & Regulations as if fully set out within Section 6: Storm Water System Design and Management Standards of the Storm Water Rules & Regulations.

COMBINED SEWER DRAINAGE SYSTEM. A single pipe conveyance system intended to receive both sewage and storm or surface water.

CONTAMINANT. Any physical, chemical, biological, or radiological substance or matter in water.

City of Manchester New Hampshire

In the year Two Thousand and Six

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BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester, as follows:

DEPARTMENT OF HIGHWAYS. The Highway Division of the City of Manchester and associated departments including, but not limited to, the Environmental Protection Division (EPD).

DIRECTOR OF PUBLIC WORKS. The Chief Administrator of the Department of Public Works who is authorized to assign Public Works staff to oversee the implementation of the Storm Water Rules & Regulations and the City of Manchester’s Storm Water Ordinance.

DISCHARGE. Dispose, deposit, spill, pour, inject, seep, dump, leak or place by any means, or that which is disposed, deposited, spilled, poured, injected, seeped, dumped, leaked or placed by any means including any direct or indirect entry of any solid or liquid matter into the Municipal Separate Storm Sewer System.

ILLICIT CONNECTIONS. Illegal and/or unauthorized connections to the municipal separate storm water system whether or not such connections result in discharges into that system. “Illegal Connection” means either of the following:

(1) Any pipe, open channel, drain or conveyance, whether on the surface or subsurface, which allows an illicit discharge to enter the storm drain system including but not limited to any conveyances which allow any non-storm water discharge including sewage, process wastewater, and wash water to enter the storm drain system, regardless of whether such pipe, open channel, drain or conveyance has been previously allowed, permitted, or approved by an authorized enforcement agency; or

(2) Any pipe, open channel, drain or conveyance connected to the municipal separate storm sewer system which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

ILLICIT DISCHARGE. Any discharge to the Municipal Separate Storm Sewer System that is not composed entirely of storm water and not specifically exempted under Section 2(J) of the Storm Water Rules & Regulations.

LAND DISTURBING ACTIVITY. Any activity on property that results in a change in the existing soil cover (both vegetative and non-vegetative) and/or the existing soil topography. Land disturbing activities include, but are not limited to, development, re-development, demolition, construction, reconstruction, clearing, grading, filling and excavation.

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City of Manchester New Hampshire

In the year Two Thousand and Six

AN ORDINANCE

"Amending the Code of Ordinances of the City of Manchester by adding a new Chapter 54: Storm Water to Title V: Public Works."

BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester, as follows:

MUNICIPAL SEPARATE STORM SEWER SYSTEMS (MS4). The conveyances owned or operated by the municipality for the collection and transportation of storm water, including the roads and streets and their drainage systems, catch basins, curbs, gutters, ditches, man-made channels, and storm drains.

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT. A permit issued pursuant to 33 USC Section 1342(b) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

PERSON. Any and all persons, including any individual, firm or association and any city or private corporation organized or existing under the laws of this or any other state or country.

POLLUTANT. Anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; petroleum hydrocarbons; automotive fluids; cooking grease; detergents (biodegradable or otherwise); degreasers; cleaning chemicals; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects and accumulations, so that same may cause or contribute to pollution; sediment; floatables; pesticides, herbicides, and fertilizers; liquid and solid wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; concrete and cement; and noxious or offensive matter of any kind.

POLLUTION. The contamination or other alteration of any water's physical, chemical or biological properties by the addition of any constituent and includes but is not limited to, a change in temperature, taste, color, turbidity, or odor of such waters, or the discharge of any liquid, gaseous, solid, radioactive, or other substance into any such waters as will or is likely to create a nuisance or render such waters harmful, detrimental or injurious to the public health, safety, welfare, or environment, or to domestic, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses, or to livestock, wild animals, birds, fish or other aquatic life.

PREMISES. Any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

STATE WATERS. Any and all rivers, streams, creeks, branches, lakes, reservoirs, ponds, drainage systems, springs, wells, and other bodies of surface and subsurface water, natural or artificial, lying within or forming a part of the boundaries of the State of New Hampshire which are not entirely confined and retained completely upon the property of a single person.

City of Manchester New Hampshire

In the year Two Thousand and Six

AN ORDINANCE

"Amending the Code of Ordinances of the City of Manchester by adding a new Chapter 54: Storm Water to Title V: Public Works."

BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester, as follows:

STORM WATER. Storm water runoff, snow melt runoff, surface runoff, street wash waters related to street cleaning or maintenance, infiltration and drainage.

STORM WATER APPEALS COMMITTEE. A three-member committee consisting of a Highway Commissioner, an engineer from a private engineering firm and an engineer from the Department of Highways.

STORM WATER MANAGEMENT. The programs to maintain quality and quantity of storm water runoff to pre-development levels.

STORM WATER MANAGEMENT FACILITIES. The drainage structures, conduits, ditches, combined sewers, sewers, and all device appurtenances by means of which storm water is collected, transported, pumped, treated or disposed of.

STORM WATER MANAGEMENT PLAN. The set of drawings and other documents that comprise all the information and specifications for the programs, drainage systems, structures, Best Management Practices, concepts and techniques intended to maintain or restore quality and quantity of storm water runoff to pre-development levels.

STORM WATER POLLUTION PREVENTION PLAN (SWPPP). A plan that clearly describes appropriate control measures that include a description of all pollution control measures (i.e., Best Management Practices) that will be implemented as part of the construction activity to control pollutants in storm water discharges and describes the interim and permanent stabilization practices for the site.

STORM WATER RULES & REGULATIONS. A supplement to the Storm Water Ordinance that includes additional conditions and requirements. Copies are available at the Department of Highways and the Office of the City Clerk.

STORM WATER RUNOFF. Flow on the surface of the ground, resulting from precipitation and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

STORM WATER UTILITY. The Department of Highways and its duly authorized agents created by ordinance of the City to administer the Storm Water Management Ordinance, and other Storm Water Rules and Regulations adopted by the City.

STRUCTURAL BEST MANAGEMENT PRACTICES. Devices that are constructed to provide control of storm water runoff.

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City of Manchester New Hampshire

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AN ORDINANCE

“Amending the Code of Ordinances of the City of Manchester by adding a new Chapter 54: Storm Water to Title V: Public Works.”

BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester, as follows:

STRUCTURAL STORM WATER CONTROL. A structural storm water management facility or device that controls storm water runoff and changes the characteristics of that runoff including, but not limited to, the quantity and quality, the period of release or the velocity of flow.

§ 54.03 ADMINISTRATION.

The Director of the Department of Highways or his designee shall administer the provisions of this ordinance and is hereby authorized to promulgate and amend such rules and regulations as may be necessary and convenient to effectuate the purposes and requirements of this ordinance.

§ 54.04 PROHIBITED DISCHARGES.

The specific prohibited discharges outlined in the Storm Water Rules & Regulations are not inclusive of all discharges prohibited by this ordinance and the Storm Water Rules & Regulations.

§ 54.05 PERMIT PROCEDURES AND REQUIREMENTS.

(A) *Permit Required* - No land owner or land operator shall begin any site work on any building(s), grading or other land development or any land disturbance activities as outlined in Section 3: of the Storm Water Rules & Regulations) without first submitting a Notice of Intent to EPA Region I. Owner must also have received acknowledgement, have an approved Storm Water Pollution Prevention Plan and meet the requirements of this ordinance.

(B) *General Waiver Requirement*. - Every applicant shall provide for storm water management as required by this ordinance and the Department of Highways Storm Water Rules & Regulations unless a written request is filed to waive this requirement. Requests to waive the Storm Water Management Plan requirements shall be submitted to the Department of Highways for approval.

City of Manchester New Hampshire

In the year Two Thousand and Six

AN ORDINANCE

“Amending the Code of Ordinances of the City of Manchester by adding a new Chapter 54: Storm Water to Title V: Public Works.”

BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester,
as follows:

(C) *Application Requirements* - Unless specifically excluded by this ordinance, any landowner or operator desiring a permit for a land disturbance activity (as described in Section 4 of the Storm Water Rules & Regulations) shall secure required approvals through the City of Manchester's Planning Board and shall submit to the Department of Highways a copy of the Notice of Intent and approved Storm Water Pollution Prevention Plan for related project before beginning any site clearing or construction.

Unless otherwise excepted by this ordinance, a permit application must be accompanied by required information as outlined in the Storm Water Rules & Regulations in order that the permit application be considered.

The Storm Water Management Plan shall be prepared to meet the requirements of the City of Manchester's Storm Water Rules & Regulations and any required maintenance agreement shall be prepared to meet those requirements. Any and all fees shall be those established by the Department of Highways.

(D) *Application Review Fees* - The fee for review of any land development application shall be set by the Director of Public Works and set forth in the Storm Water Rules & Regulations. Fee shall be made prior to the issuance of any building permit for the development.

§ 54.06 GENERAL PERMIT PROVISIONS.

(A) *Land Disturbance permits when required* - Every owner/operator will be required to obtain an EPA General Permit from the EPA through a Notice of Intent in the following cases:

- (1) Land disturbing activity disturbs one (1) or more acres of land;
- (2) Land disturbing activity of less than one (1) acre of land if such activity is part of a larger common plan of development that affects one (1) or more acres of land;
- (3) Land disturbing activity of less than one (1) acre of land, if in the discretion of City of Manchester such activity poses a unique threat to water, or public health or safety;
- (4) The creation and use of borrow pits (the excavation of soils from one area to be used in another area that would meet any of the criteria of 1, 2, or 3 above).

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City of Manchester New Hampshire

In the year Two Thousand and Six

AN ORDINANCE

"Amending the Code of Ordinances of the City of Manchester by adding a new Chapter 54: Storm Water to Title V: Public Works."

BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester, as follows:

§ 54.07 ELIGIBILITY.

(A) *Permit Eligibility* - Permit eligibility is limited to discharges from "large" and "small" construction activity or as otherwise designated by the EPA. This general permit contains eligibility restrictions, as well as permit conditions and requirements. Permittee may have to take certain actions to be eligible for coverage under this permit. In such cases, permittee must continue to satisfy those eligibility provisions to maintain permit authorization. If permittee does not meet the requirements that are pre-condition to eligibility, then the resulting discharges constitute unpermitted discharges. By contrast, if permittee does not comply with the requirements of the general permit, permittee may be in violation of the general permit for their otherwise eligible discharges.

(B) Combined Sewer Drainage Systems Discharges from "large" and "small" construction activity or as otherwise designated by the EPA that flow into a combined sewer system are not covered by the EPA's Phase II Storm Water Program. A Notice of Intent does not need to be submitted to the EPA nor does the owner/operator have to receive acknowledgement from the EPA prior to the start of construction activity.

The City of Manchester is requiring in these instances that all other conditions as outlined in this ordinance or the Storm Water Rules and Regulations shall apply to all construction activity as defined in Section 4 of the Storm Water Rules & Regulations, with the exception of submitting the Notice of Intent to EPA Region I. The requirements for determination of no impact status as outlined in the Endangered Species Act and Historic Preservation Act along with the completion of a Storm Water Pollution Prevention Plan as outlined in the Notice of Intent submission is still a mandatory submission to the City of Manchester and must follow the conditions as outlined in the EPA's Notice of Intent.

§ 54.08 WAIVERS.

Every applicant shall provide for Storm Water Management as required by the Storm Water Rules & Regulations, unless a written request is filed to waive this requirement. Requests to waive the Storm Water Management Program requirements shall be submitted to the Director of Public Works for approval.

§ 54.09 STORM WATER SYSTEM DESIGN AND MANAGEMENT STANDARDS.

The City adopts as its storm water design and Best Management Practices manual those publications referenced in Section 6: Storm Water System Design and Management Standards of the Storm Water Rules & Regulations

City of Manchester New Hampshire

In the year Two Thousand and Six

AN ORDINANCE

"Amending the Code of Ordinances of the City of Manchester by adding a new Chapter 54: Storm Water to Title V: Public Works."

BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester, as follows:

§ 54.10 INDUSTRIAL ACTIVITY DISCHARGES.

All operators of City landfills, hazardous waste treatment, disposal, and recovery facilities and industrial facilities are subject to Section 313 of Title III of the Superfund Amendments and Reauthorization Act of 1986 (SARA) 42, USC § 11023, and industrial facilities that the City determines are contributing a pollutant load to the Municipal Separate Storm Sewer System, which are sources of storm water discharges associated with industrial activity shall comply with the requirements outlined in the City's Storm Water Rules & Regulations.

§ 54.11 ACCESS AND INSPECTION OF PROPERTIES AND FACILITIES.

(A) The representative of the Department of Highways shall be permitted to enter and inspect properties and facilities at reasonable times as often as may be necessary to determine compliance with this ordinance.

(B) If a property or facility has security measures in force, which require proper identification and clearance before entry into its premises, the owner or operator shall make the necessary arrangements to allow access to representatives of the Department of Highways.

(C) The owner or operator shall allow the representative of the Department of Highways ready access to all parts of the premises for the purposes of inspection, sampling, photography, videotaping, examination and copying of any records that are required under the conditions of a National Pollutant Discharge Elimination System Permit to discharge storm water.

(D) The Department of Highways shall have the right to set up on any property or facility such devices as are necessary in the opinion of the Department of Highways to conduct monitoring and/or sampling of flow discharges.

(E) The Department of Highways may require the owner or operator to install monitoring equipment and perform monitoring as necessary, and make the monitoring data available to the Department of Highways. This sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the owner or operator at his/her own expense. All devices used to measure flow and quality shall be calibrated to ensure their accuracy.

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City of Manchester New Hampshire

In the year Two Thousand and Six

AN ORDINANCE

"Amending the Code of Ordinances of the City of Manchester by adding a new Chapter 54: Storm Water to Title V: Public Works."

BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester, as follows:

(F) Any temporary or permanent obstruction to safe and easy access to the property or facility to be inspected and/or sampled shall be promptly removed by the owner or operator at the written or oral request of the Department of Highways and shall not be replaced. The costs of clearing such access shall be borne by the owner or operator.

§ 54.12 NOTIFICATION OF ACCIDENTAL DISCHARGES AND SPILLS.

Notwithstanding other requirements of law, as soon as any person responsible for a facility, activity or operation, or responsible for emergency response for a facility, activity or operation has information of any known or suspected release of pollutants or non-storm water discharges from that facility or operation which are resulting or may result in illicit discharges or pollutants discharging into storm water, the City of Manchester's separate storm sewer system, State Waters, or Waters of the U.S., said person shall immediately notify the Department of Highways and take all necessary steps to ensure the discovery, containment, and cleanup of such release so as to minimize the effects of the discharge.

§ 54.13 VIOLATIONS, ENFORCEMENT AND PENALTIES.

(A) Unreasonable delays in allowing the Department of Highways access to a facility shall be a violation of this ordinance.

(B) If the Department of Highways has been refused access to any part of the premises from which storm water is discharged, and the Department of Highways is able to demonstrate probable cause to believe that there may be a violation of this ordinance, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this ordinance or any order issued hereunder, or to protect the overall public health, safety, environment and welfare of the community, then the Department of Highways may seek issuance of a search warrant from any court of competent jurisdiction.

(C) It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of the City's Storm Water Ordinance or the Storm Water Rules & Regulations. Any person who has violated or continues to violate these provisions may be subject to the enforcement actions outlined in this section or may be restrained by injunction or otherwise abated in a manner provided by law.

In the event the violation constitutes an immediate danger to public health or public safety, the Department of Highways is authorized to enter upon the subject private property, without giving prior notice, to take any and all measures necessary to abate the violation and/or restore the property. The Department of Highways is authorized to seek costs of the abatement (as outlined in Section 10(E) of the Storm Water Rules & Regulations).

City of Manchester New Hampshire

In the year Two Thousand and Six

AN ORDINANCE

"Amending the Code of Ordinances of the City of Manchester by adding a new Chapter 54: Storm Water to Title V: Public Works."

BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester, as follows:

(D) Whenever the Department of Highways finds that a violation of this ordinance or the Rules and Regulations has occurred, the Public Works Director or designee may order compliance by written Notice of Violation. The Notice of Violation shall contain:

- (1) The name and address of the alleged violator;
- (2) The address when available or a description of the building, structure or land upon which the violation is occurring, or has occurred;
- (3) A statement specifying the nature of the violation;
- (4) A description of the remedial measures necessary to restore compliance with this ordinance and a time schedule for the completion of such remedial action;
- (5) A statement of the penalty or penalties that may be assessed against the person to whom the notice of violation is directed; and,
- (6) A statement that the determination of violation may be appealed to the Department of Highways Storm Water Appeals Committee by filing a written notice of appeal within five (5) days of service of notice of violation.

(E) Such notice may require without limitation:

- (1) The performance of monitoring, analyses, and reporting;
- (2) The elimination of illicit discharges and illegal connections;
- (3) That violating discharges, practices, or operations shall cease and desist;
- (4) The abatement or remediation of storm water pollution or contamination hazards and the restoration of any affected property;
- (5) Payment of costs to cover administrative and abatement costs; and,
- (6) The implementation of pollution prevention practices.

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City of Manchester New Hampshire

In the year Two Thousand and Six

AN ORDINANCE

"Amending the Code of Ordinances of the City of Manchester by adding a new Chapter 54: Storm Water to Title V: Public Works."

BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester, as follows:

(F) *Appeal of Notice of Violation* - Any person receiving a Notice of Violation may appeal the determination of the Department of Highways. The appeal must be received within five (5) days from the date of the Notice of Violation. Filing of an appeal does not relieve the owner from full compliance with the remedial actions outlined in the Notice of Violation. Hearing on the appeal before the Department of Highways, Storm Water Appeals Committee shall take place within thirty (30) days from the date of receipt of the appeal. The decision of the Storm Water Appeals Committee shall be final.

(G) *Enforcement Measures After Appeal* - If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, then representatives of the Department of Highways may enter upon the subject private property and are authorized to take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the government agency or designated contractor to enter upon the premises for the purposes set forth above.

(H) *Costs of Abatement of the Violation* - Within ten (10) days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs. The property owner may file a written protest objecting to the assessment or to the amount of the assessment within fifteen (15) days of such notice. If the amount due is not paid within thirty (30) days after receipt of the notice, or if an appeal is taken, within five (5) days after a decision on said appeal, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment. Any person violating any of the provisions of this article shall become liable to the City of Manchester by reason of such violation.

(I) *Civil Penalties* - In the event the alleged violator fails to take the remedial measures set forth in the notice of violation or otherwise fails to cure the violations described therein within two (2) days, or such greater period as the Department of Highways shall deem appropriate, after the Director of Public Works or designee has taken one or more of the actions described above, the Public Works Director may impose a penalty not to exceed \$10,000 (depending on the severity of the violation) for each day the violation remains unremedied after receipt of the notice of violation.

City of Manchester New Hampshire

In the year Two Thousand and Six

AN ORDINANCE

"Amending the Code of Ordinances of the City of Manchester by adding a new Chapter 54: Storm Water to Title V: Public Works."

BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester,
as follows:

(J) *Criminal Penalties* - For violations of this ordinance or the Storm Water Rules & Regulations, the Director of Public Works may issue a citation to the alleged violator requiring such person to appear in court to answer charges for such violation. Upon conviction, such person shall be punished by a fine not to exceed \$1,000 for each day the violation has occurred, or imprisonment for up to sixty (60) days or both. Each act of violation and each day upon which any violation shall occur shall constitute a separate offense.

(K) *Remedies Not Exclusive* - The remedies listed in this ordinance and the Storm Water Rules & Regulations are not exclusive of any other remedies available under any applicable Federal, State or local law and the City of Manchester may seek cumulative remedies including but not limited to the recovery of attorney's fees, court costs, sampling and monitoring expenses and other expenses associated with enforcement of this ordinance.

Storm Water Rules & Regulations

Note: These Rules & Regulations are prepared as a direct supplement to the City of Manchester's Storm Water Ordinance, Title V, Chapter 54: Storm Water. These Rules & Regulations will incorporate language directly from that Ordinance along with additional conditions and requirements as provided by that Ordinance.

SECTION 1. GENERAL PROVISIONS

Purpose.

It is the purpose of these Rules & Regulations to:

- (A) Protect, maintain, and enhance the environment of the City of Manchester, New Hampshire and the public health, safety and the general welfare of the citizens of the City, by controlling discharges of pollutants to the City's storm water system and to maintain and improve the quality of the receiving waters into which the storm water outfalls flow, including, without limitation, lakes, rivers, streams, ponds, wetlands, and groundwater of the City.
- (B) Enable the City of Manchester to comply with the National Pollution Discharge Elimination System Permit (NPDES) and applicable regulations, 40 CFR §122.26 for storm water discharges.
- (C) Allow the City of Manchester to exercise the powers granted by the State of New Hampshire through ordinance or resolution to:
 - (1) Exercise general regulation over the planning, location, construction, and operation and maintenance of storm water facilities in the City, whether or not owned and operated by the City;
 - (2) Adopt any rules and regulations deemed necessary to accomplish the purposes of this statute, including the adoption of a system of fees for services and permits;
 - (3) Establish standards to regulate the quantity of storm water discharged and to regulate storm water contaminants as may be necessary to protect water quality;
 - (4) Review and approve plans for storm water management in proposed subdivisions or commercial developments;
 - (5) Issue permits for storm water discharges, or for the construction, alteration, extension, or repair of storm water facilities;
 - (6) Suspend or revoke permits when it is determined that the permittee has violated any applicable ordinance, resolution, or condition of the permit;
 - (7) Regulate and prohibit discharges into storm water facilities of sanitary, industrial, or commercial sewage or waters that have otherwise been contaminated; and
 - (8) Expend funds to remediate or mitigate the detrimental effects of contaminated land or other sources of storm water contamination, whether public or private.

Administration.

The Director of the Department of Highways or his designee shall administer the provisions of these Rules & Regulations and is hereby authorized to promulgate and amend such rules and regulations as may be necessary and convenient to effectuate the purposes and requirements of these Rules & Regulations.

Interpretations of Provisions.

The provisions of these Rules & Regulations with respect to the meaning of the technical terms and phrases, the regulations with respect to erosion and sediment control, and other technical matters shall be interpreted and administered by the Public Works Director acting in and for the City, through its Highway Commission.

Definitions.

For the purpose of these Rules & Regulations, the following definitions shall apply: Words used in the singular shall include the plural, and the plural shall include the singular; words used in the present tense shall include the future tense. The word "shall" is mandatory and not discretionary. The word "may" is permissive. Words not defined in this section shall be construed to have the meaning given by common and ordinary use as defined in the latest edition of Webster's Dictionary.

- (1) "*Accidental Discharge*" means a discharge prohibited by these Rules & Regulations, which occurs by chance, and without planning or thought prior to occurrence.
- (2) "*As-built Plans*" means drawings depicting conditions as they were actually constructed.
- (3) "*Best Management Practices*" or BMPs are physical, structural, and/or managerial practices that, when used singly or in combination, prevent or reduce pollution of water, that have been approved by the City of Manchester, and that have been incorporated by reference into these Rules & Regulations as if fully set out therein.
[NOTE: See Section 6A(1-4) for recommended BMP manuals.]
- (4) "*Channel*" means a natural or artificial watercourse with a definite bed and banks that conducts flowing water continuously or periodically.
- (5) "*Clean Water Act*" means the Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.
- (6) "*Combined Sewer Drainage System*" means a single pipe conveyance system intended to receive both sewage and storm or surface water.
- (7) "*Community Water*" means any and all rivers, streams, creeks, branches, lakes, reservoirs, ponds, drainage systems, springs, wetlands, wells and other bodies of surface or subsurface water, natural or artificial, lying within or forming a part of the boundaries of the City of Manchester.
- (8) "*Construction Activity*" means activities subject to the EPA Phase II Storm Water Program and the NPDES General Construction Permits. These

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- include construction projects resulting in land disturbance. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.
- (9) "*Contaminant*" means any physical, chemical, biological, or radiological substance or matter in water.
 - (10) "*Department of Highways*" (DPW) means the Highway Division of the City of Manchester and associated departments including, but not limited to, the Environmental Protection Division (EPD).
 - (11) "*Director of Public Works*" is the chief administrator of DPW and is authorized to assign DPW staff to oversee the implementation of these Rules & Regulations and the City of Manchester's Storm Water Ordinance.
 - (12) "*Design Storm Event*" means a hypothetical storm event, of a given frequency interval and duration, used in the analysis and design of a storm water facility.
 - (13) "*Discharge*" means dispose, deposit, spill, pour, inject, seep, dump, leak or place by any means, or that which is disposed, deposited, spilled, poured, injected, seeped, dumped, leaked, or placed by any means including any direct or indirect entry of any solid or liquid matter into the Municipal Separate Storm Sewer System.
 - (14) "*Easement*" means an acquired privilege or right of use or enjoyment that a person, party, firm, corporation, City or other legal entity has in the land of another.
 - (15) "*Erosion*" means the removal of soil particles by the action of water, wind, ice or other geological agents, whether naturally occurring or acting in conjunction with or promoted by anthropogenic activities or effects.
 - (16) "*Erosion and Sediment Control Plan*" means a written plan (including drawings or other graphic representations) that is designed to minimize the accelerated erosion and sediment runoff at a site during construction activities.
 - (17) "*Hotspot*" ("*Priority Area*") means an area where land use or activities generate highly contaminated runoff, with concentrations of pollutants in excess of those typically found in storm water.
 - (18) "*Illicit Connections*" means illegal and/or unauthorized connections to the Municipal Separate Storm Water System whether or not such connections result in discharges into that system. "Illegal Connection" means either of the following:
 - a) Any pipe, open channel, drain or conveyance, whether on the surface or subsurface, which allows an illicit discharge to enter the storm drain system including but not limited to any conveyances which allow any non-storm water discharge including sewage, process wastewater, and wash water to enter the storm drain system, regardless of whether such pipe, open channel, drain or conveyance has been previously allowed, permitted, or approved by an authorized enforcement agency; or
 - b) Any pipe, open channel, drain or conveyance connected to the Municipal Separate Storm Sewer System which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

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- (19) *"Illicit Discharge"* means any discharge to the Municipal Separate Storm Sewer System that is not composed entirely of storm water and not specifically exempted under Section 2(J).
 - (20) *"Industrial Activity"* means activities subject to NPDES Industrial Permits as defined in 40 CFR, Section 122.26 (b)(14).
 - (21) *"Land Disturbing Activity"* means any activity on property that results in a change in the existing soil cover (both vegetative and non-vegetative) and/or the existing soil topography. Land disturbing activities include, but are not limited to, development, re-development, demolition, construction, reconstruction, clearing, grading, filling, and excavation.
 - (22) *"Maintenance"* means any activity that is necessary to keep a storm water facility in good working order so as to function as designed. Maintenance shall include complete reconstruction of a storm water facility if reconstruction is needed in order to restore the facility to its original operational design parameters. Maintenance shall also include the correction of any problem on the site property that may directly impair the functions of the storm water facility.
 - (23) *"Maintenance Agreement"* means a document recorded in the land records that acts as a property deed restriction, and which provides for long-term maintenance of storm water management practices.
 - (24) *"Municipal Separate Storm Sewer System (MS4)"* means the conveyances owned or operated by the municipality for the collection and transportation of storm water, including the roads and streets and their drainage systems, catch basins, curbs, gutters, ditches, man-made channels, and storm drains.
 - (25) *"National Pollutant Discharge Elimination System Permit"* or *"NPDES Permit"* means a permit issued pursuant to 33 USC § 1342(b) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.
 - (26) *"Non-Storm Water Discharge"* means any discharge to the storm drain system that is not composed entirely of storm water.
 - (27) *"Off-site Facility"* means a structural BMP located outside the subject property boundary described in the permit application for land development activity.
 - (28) *"On-site Facility"* means a structural BMP located within the subject property boundary described in the permit application for land development activity.
 - (29) *"Peak Flow"* means the maximum instantaneous rate of flow of water at a particular point resulting from a storm event.
 - (30) *"Person"* means any and all persons, including any individual, firm or association and any city or private corporation organized or existing under the laws of this or any other state or country.
 - (31) *"Pollutant"* means anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; petroleum hydrocarbons; automotive fluids; cooking grease; detergents (biodegradable or otherwise); degreasers; cleaning chemicals; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects and accumulations, so that same may cause or contribute to pollution; sediment; floatables; pesticides, herbicides, and fertilizers; liquid and solid

- wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; concrete and cement; and noxious or offensive matter of any kind.
- (32) *"Pollution"* means the contamination or other alteration of any water's physical, chemical or biological properties by the addition of any constituent and includes but is not limited to, a change in temperature, taste, color, turbidity, or odor of such waters, or the discharge of any liquid, gaseous, solid, radioactive, or other substance into any such waters as will or is likely to create a nuisance or render such waters harmful, detrimental or injurious to the public health, safety, welfare, or environment, or to domestic, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses, or to livestock, wild animals, birds, fish or other aquatic life.
- (33) *"Premises"* means any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.
- (34) *"Priority Area"* means "hot spot" as defined in Definitions (17).
- (35) *"Runoff"* means that portion of the precipitation on a drainage area that is discharged from the area into the Municipal Separate Storm Water System.
- (36) *"Sediment"* means solid material, both mineral and organic, that is in suspension, is being transported, or has been moved from its site of origin by air, water, gravity, or ice and has come to rest on the earth's surface either above or below sea level.
- (37) *"Sedimentation"* means soil particles suspended in storm water that can settle in streambeds and disrupt the natural flow of the stream.
- (38) *"Soils Report"* means a study of soils on a subject property with the primary purpose of characterizing and describing the soils. The soils report shall be prepared by a qualified soils engineer, who shall be directly involved in the soil characterization either by performing the investigation or by directly supervising employees.
- (39) *"Stabilization"* means providing adequate measures, vegetative and/or structural, that will prevent erosion from occurring.
- (40) *"State Waters"* means any and all rivers, streams, creeks, branches, lakes, reservoirs, ponds, drainage systems, springs, wells, and other bodies of surface and subsurface water, natural or artificial, lying within or forming a part of the boundaries of the State of New Hampshire which are not entirely confined and retained completely upon the property of a single person.
- (41) *"Storm Water"* means storm water runoff, snow melt runoff, surface runoff, street wash waters related to street cleaning or maintenance, infiltration and drainage.
- (42) *"Storm Water Appeals Committee"* will be a three-member committee consisting of a Highway Commissioner, an engineer from a private engineering firm and an engineer from the Department of Highways.
- (43) *"Storm Water Management"* means the programs to maintain quality and quantity of storm water runoff to pre-development levels.
- (44) *"Storm Water Management Facilities"* means the drainage structures, conduits, ditches, combined sewers, sewers, and all device appurtenances by means of which storm water is collected, transported, pumped, treated or disposed of.

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- (45) “*Storm Water Management Plan*” means the set of drawings and other documents that comprise all the information and specifications for the programs, drainage systems, structures, BMPs, concepts and techniques intended to maintain or restore quality and quantity of storm water runoff to pre-development levels.
 - (46) “*Storm Water Pollution Prevention Plan*” (SWPPP) means a plan that clearly describes appropriate control measures that include a description of all pollution control measures (i.e., BMPs) that will be implemented as part of the construction activity to control pollutants in storm water discharges and describes the interim and permanent stabilization practices for the site.
 - (47) “*Storm Water Runoff*” means flow on the surface of the ground, resulting from precipitation and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.
 - (48) “*Storm Water Utility*” means the Department of Highways and its duly authorized agents created by ordinance of the City to administer the Storm Water Management Ordinance, and other Storm Water Rules and Regulations adopted by the City.
 - (49) “*Structural BMPs*” means devices that are constructed to provide control of storm water runoff.
 - (50) “*Structural Storm Water Control*” means a structural storm water management facility or device that controls storm water runoff and changes the characteristics of that runoff including, but not limited to, the quantity and quality, the period of release or the velocity of flow.
 - (51) “*Surface Water*” includes waters upon the surface of the earth in bounds created naturally or artificially including, but not limited to, streams, other watercourses, lakes and reservoirs.
 - (52) “*Watercourse*” means a permanent or intermittent stream or other body of water, either natural or man-made, which gathers or carries surface water.
 - (53) “*Watershed*” means all the land area that contributes runoff to a particular point along a waterway.

SECTION 2. PROHIBITED DISCHARGES

The specific prohibited discharges in this section are not inclusive of all discharges prohibited by these Rules & Regulations.

- (A) Violation of Water Quality Standard. No person shall introduce or cause to be introduced into the Municipal Separate Storm Sewer System (MS4) any discharge that causes or contributes to causing the City to violate a water quality standard, the City’s NPDES permit, or any state-issued discharge permit for discharges from its MS4.
- (B) Introduction of Prohibited Substances. No person shall dump, spill, leak, pump, pour, emit, empty discharge, leach, dispose, or otherwise introduce or cause, allow, or permit to be introduced any of the following substances into the MS4.
 - (1) Any new or used motor oil, antifreeze, or other motor vehicle fluid;

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- (2) Any industrial wastes;
 - (3) Any hazardous waste, including hazardous household waste;
 - (4) Any domestic sewage or septic tank waste, grease trap waste, or grit trap waste;
 - (5) Any garbage, rubbish or yard waste;
 - (6) Any wastewater from a commercial carwash facility; from any vehicle washing, cleaning or maintenance at any new or used automobile, or other vehicle dealership, rental agency, body shop, repair shop, or maintenance facility; or from any washing, cleaning or maintenance of any business or commercial or public service vehicle, including truck, bus, or heavy equipment, by a business or public entity that operates more than two such vehicles;
 - (7) Any wastewater from the washing, cleaning, de-icing, or other maintenance of aircraft;
 - (8) Any wastewater from commercial mobile power washer or from the washing or other cleaning of a building exterior that contains any soap, detergent, degreaser, solvent, or any other harmful cleaning substance;
 - (9) Any wastewater from any floor, rug or carpet cleaning;
 - (10) Any wastewater from the wash down or other cleaning of pavement that contains any harmful quantity of soap, detergent, solvent, degreaser, emulsifier, dispersant, or any other harmful cleaning substance; or any wastewater from the wash down or other cleaning of any pavement where any spill, leak, or other release of oil, motor fuel, or other petroleum or hazardous substance has occurred, unless all harmful quantities of such released material have been previously removed;
 - (11) Any effluent from a cooling tower, condenser, compressor, emissions scrubber, emissions filter, or the blowdown from a boiler;
 - (12) Any ready-mixed concrete, mortar, ceramic, or asphalt base material or hydro mulch material, or from the cleaning of commercial vehicles or equipment containing, or used in transporting or applying, such material;
 - (13) Any runoff or wash down water from any animal pen, kennel, or fowl or livestock containment area;
 - (14) Any filter backwash from a swimming pool, fountain or spa;
 - (15) Any swimming pool water containing any harmful quantity of chlorine, muriatic acid or other chemical used in the treatment or disinfection of the swimming pool water or in the pool cleaning;
 - (16) Any water from a water curtain in a spray room used for painting vehicles or equipment;
 - (17) Any contaminated runoff from a vehicle wrecking yard;
 - (18) Any substance or material that will damage, block, or clog the MS4;
 - (19) Any release from a petroleum storage tank, or any leachate or runoff from soil contaminated by a leaking petroleum storage tank, or any discharge of pumped, confined, or treated waste water from the remediation of any such petroleum storage tank release, unless it complies with state and federal standards and does not contain any harmful quantity of any pollutant;
 - (20) Any pet waste as outlined in the Manchester Ordinance §90.04

- (C) Introduction of Earth-type Materials. No person shall introduce or cause to be introduced into the MS4 any harmful quantity of sediment, silt, earth, soil, or other material associated with cleaning, grading, excavation or other construction activities, (or associated with landfilling or other placement or disposal of soil, rock, or other earth materials) in excess of what could be retained on site or captured by employing sediment and erosion control measures to the maximum extent practicable (under the prevailing circumstances).
- (D) Introduction of Sewage and Grey Water. No person shall connect a line conveying sanitary sewage, domestic or industrial, to the MS4; this includes gray water discharge such as washing machine discharge, sink drains, floor drains, etc. or allow such a connection to continue.
- (E) Service Station Pavement Wash Water. No person shall cause or allow any pavement wash water from a service station to be discharged into the MS4 unless such wash water has passed through a properly functioning and maintained, grease, oil, and sand interceptor before discharge into the MS4.
- (F) Pesticide and Herbicide Use. No person shall use or cause to be used any pesticide or herbicide contrary to any directions for use on any labeling required by state or federal statute or regulation. Any use of any pesticide, herbicide, or fertilizer in any manner that the person knows, or reasonably should know, is likely to cause, or does cause, a harmful quantity of the pesticide, herbicide, or fertilizer to enter the MS4 or waters of the United States.
- (G) Disposal of Pesticide and Herbicide. No person shall dispose of, discard, store, or transport a pesticide, herbicide, or fertilizer, or a pesticide, herbicide, or a fertilizer container, in a manner that the person knows, or reasonably should know, is likely to cause, or does cause, a harmful quantity of the pesticide, herbicide, or fertilizer to enter the MS4 or waters of the United States.
- (H) Storage of Trash, Toxic Substances and Hazardous Wastes. No person shall allow trash and debris to stand on property or collect on property and prohibit the storage of toxic or hazardous substances on property so as to allow exposure to precipitation and storm water runoff, which can affect storm water discharge to the MS4 or adjacent water table.
- (I) Litter of Urban Ponds, Lakes, Streams or River Banks. Any residential, commercial or industrial property boundary, located within 150 feet of any pond, lake, stream or river bank, shall assure that trash, debris, materials, containers, grass clippings, leaf and yard waste, wood chips, material used for cover or any such other material, does not litter this buffer area by means natural (wind or storm movement of material), by the careless discard of such material, or by any other means that displaces these objects from the owner's property boundary to anywhere within this 150 foot buffer zone area. All such violations will be addressed first through written notification with a time frame for clean

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up. If the clean up is not completed in the time frame stated, then the City will continue escalated enforcement as outlined in the penalty section of these Rules & Regulations.

- (J) Allowable Discharges. Notwithstanding any provisions to the contrary, the following types of discharges into the storm drain system are exempt from the prohibitions set herein:

- (1) Watering of lawns, landscaping and gardens;
- (2) Washing of personal motor vehicles by residents;
- (3) Draining of water from swimming pools or spas, after chlorine content of such water according to a test kit, shows a zero reading of chlorine;
- (4) Flushing of water lines or other discharges from potable water sources;
- (5) Flows from fire fighting activities;
- (6) Managed minimal amounts of air conditioning condensation;
- (7) Uncontaminated pumped groundwater;
- (8) Discharges from rising ground waters, springs, and flows from riparian habitats and wetlands.

SECTION 3. PERMIT PROCEDURES AND REQUIREMENTS

- (A) Permit Required. No land owner or land operator shall begin any site work on any building(s), grading or other land development or any land disturbance activities without first submitting a Notice of Intent (NOI) to EPA Region I. Owner must also have received an acknowledgement, have an approved Storm Water Pollution Prevention Plan (SWPPP) and meet the requirements of the Storm Water Ordinance and these Rules & Regulations.
- (B) Application Requirements. Unless specifically excluded by the ordinance and these Rules & Regulations, any landowner or operator desiring a permit for a land disturbance activity (as described in Section 4(A)) shall secure required approvals through the City of Manchester's Planning Department/Board and shall submit to the Department of Highways a copy of the NOI and approved SWPPP for related project before beginning any site clearing or construction.

Unless otherwise excepted by these Rules & Regulations, a permit application must be accompanied by the following in order that the permit application be considered: a storm water management concept plan; a maintenance agreement; and a non-refundable permit review fee.

The Storm Water Management Plan shall be prepared to meet the requirements of Section 4B(2b) of these Rules & Regulations. The maintenance agreement may be prepared to meet the requirements of these Rules & Regulations and fees may be those established by the Department of Highways.

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- (C) The Department of Highways May Establish Application Review Fees. The fee for review of any land development application shall be established by the Director of Public Works and must be paid before site construction begins. Any fee schedule is included as an appendix to these Rules & Regulations.
- (D) Application Procedure. The following application procedure will apply for any construction project, whether a new development or redevelopment as outlined within these Rules & Regulations:
- (1) Applications for land disturbance activity permits must be filed with the City of Manchester's Planning Department on any regular business day.
 - (2) A copy of this permit application shall be forwarded to the Department of Highways for review.
 - (3) Permit applications shall include the following before all final approvals are given by the City of Manchester: two copies of the Storm Water Pollution Prevention Plan, two copies of the maintenance agreement, and any required review fees.
 - (4) Within thirty (30) business days of the receipt of a complete permit application, including all documents as required by these Rules & Regulations, Manchester's Planning Department shall inform the applicant whether the application, plan and maintenance agreement are approved or disapproved.
 - (5) If the permit application, Storm Water Pollution Prevention Plan or maintenance agreement are disapproved, the applicant may revise the Storm Water Pollution Prevention Plan or agreement. If additional information is submitted, the Planning Board and Department of Highways shall have thirty (30) business days from the date the additional information is received to inform the applicant that the plan and maintenance agreement are either approved or disapproved.
 - (6) If the permit application, final Storm Water Pollution Prevention Plan and maintenance agreement are approved by the Planning Department/Board and Department of Highways, all appropriate land disturbance activity permits shall be issued.
- (E) Permit Duration. Permits issued under this section shall be valid from the date of issuance through the date as outlined in Section 4(E) .

SECTION 4. GENERAL PERMIT PROVISIONS

- (A) Land Disturbance Permits. When required, every owner/operator will be required to obtain an EPA General Permit from the EPA through a Notice of Intent (NOI) in the following cases:
- (1) Land disturbing activity disturbs one (1) or more acres of land;
 - (2) Land disturbing activity of less than one (1) acre of land if such activity is part of a larger common plan of development that affects one (1) or more acres of land;
 - (3) Land disturbing activity of less than one (1) acre of land, if in the discretion of City of Manchester such activity poses a unique threat to water, or public health or safety;

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- (4) The creation and use of borrow pits (the excavation of soils from one area to be used in another area that meets any of the criteria of 1, 2, and 3 above).

(B) Application for a Land Disturbance Permit.

- (1) Each application shall include the following:
- (a) Name of applicant;
 - (b) Business or residence address of applicant;
 - (c) Name, address and telephone number of the owner of the property of record in the office of the assessor of property;
 - (d) Address and legal description of subject property including the tax reference number and parcel number of the subject property;
 - (e) Name, address and telephone number of the contractor and any subcontractor(s) who shall perform the land disturbing activity and who shall implement the erosion and sediment control plan and SWPPP;
 - (f) A statement indicating the nature, extent and purpose of the land disturbing activity including the size of the area for which the permit shall be applicable and a schedule for the starting and completion dates of the land disturbing activity.
 - (g) The applicant shall obtain from any other state or federal agency any other appropriate environmental permits that pertain to the property. However, the inclusion of those permits in the application shall not foreclose the City of Manchester from imposing additional development requirements and conditions, commensurate with this ordinance, on the development of property covered by those permits.
- (2) Each application shall be accompanied by:
- (a) A sediment and erosion control plan.
 - (b) A Storm Water Pollution Prevention Plan (SWPPP) providing for storm water management during the land disturbing activity and after the activity has been completed. The SWPPP shall be prepared, signed, and sealed by a Registered Professional Engineer (the signature and seal of the Registered Professional Engineer shall constitute his/her attestation that the SWPPP fully complies with the requirements of the Construction General Permit, or with any applicable individual or group NPDES permit issued for storm water discharges from the construction site, and with any additional requirement imposed by these Rules & Regulations) and shall provide the following Best Management Practices (BMP) measures:
 - (c) Ensure existing vegetation is preserved where feasible;

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- (d) Disturbed portions of the site are stabilized as soon as practicable in portions of the site where construction activities have temporarily or permanently ceased;
- (e) In no case shall a construction site have more than 5 acres of unstabilized area at one time;
- (f) Use of structural practices to divert flows from exposed soils, store flows, or otherwise limit runoff and the discharge of pollutants for the site to the extent feasible;
- (g) Minimize the tracking of sediments off-site by vehicles;
- (h) Minimize the generation of dust or other windblown waste from the site;
- (i) Prevent the discharge of building materials to include cement, lime, concrete, and mortar to the MS4 or waters of the United States;
- (j) Provide general good housekeeping measures to prevent and contain spills and assure the proper cleanup and disposal of any such spills in compliance with state, federal and local requirements;
- (k) Implementation of proper waste disposal and waste management techniques, including covering waste materials and minimizing ground contact with hazardous chemicals and trash;
- (l) Timely maintenance of vegetation, erosion and sediment control measures and other BMPs in good and effective operating condition;
- (m) Installation of structural measures during the construction process to control pollutants in storm water discharges that will occur after construction operations have been completed.

- (C) Storm Water Pollution Prevention Plan (SWPPP). The SWPPP shall be updated and modified as appropriate and as required by the Construction General Permit and these Rules & Regulations. Any update or modification to the SWPPP shall be prepared, signed, and sealed by a Registered Professional Engineer.

All contractors and subcontractors identified in a SWPPP shall sign a copy of the following certification statement before conducting any professional service identified in the SWPPP.

"I certify under penalty of law that I understand the terms and conditions of the National Pollutant Discharge Elimination System (NPDES) permit that authorizes the storm water discharges associated with industrial activity from the construction site identified as part of this certification, with the Storm Water Ordinance of the City of Manchester, New Hampshire, and with those provisions of the Storm Water Pollution Prevention Plan (SWPPP) for the construction site for which I am responsible."

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This certification must include the name and title of the person providing the signature; the name, address and telephone number of the contracting firm; the address (or other identifying description) of the site; and the date the certification is made. The SWPPP with Engineers seal and signature and the certifications of contractors and subcontractors shall be retained at the construction site from the date of commencement of construction through the date of final stabilization. A copy must also be made available to the City of Manchester's Department of Highways.

Each application for a land disturbance permit shall be accompanied by payment of land disturbance permit and other storm water management fees, which shall be set in the Rules & Regulations.

(D) Review and Approval of Application.

- (1) The Planning Department and Department of Highways will review each application for a land disturbance permit to determine its conformance with the provisions of these Rules & Regulations. Within thirty (30) days after receiving an application, the Planning Department shall provide one of the following responses in writing:
 - (a) Approval of the permit application;
 - (b) Approval of the permit application, subject to such reasonable conditions as may be necessary to secure substantially the objectives of this ordinance, and issue the permit subject to these conditions; or
 - (c) Denial of the permit application, indicating the reason(s) for the denial.
- (2) If the Planning Department/Board has granted conditional approval of the permit, the applicant shall submit a revised plan that conforms to the conditions established by the Planning Department/Board. However, the applicant shall be allowed to proceed with his land disturbing activity so long as it conforms to conditions established by the Planning Department/Board.
- (3) No development plans will be released until the land disturbance permit has been approved.

(E) Permit Duration.

Every land disturbance permit shall expire and become null and void if substantial work authorized by such permit has not commenced within one hundred eighty (180) calendar days of issuance, or is not complete within eighteen (18) months from the date of the commencement of construction (unless construction extension is granted by the Planning Board).

- (F) Notice of Construction. The applicant must notify the Department of Highways ten (10) working days in advance of the commencement of construction. The Owner/Operator/Contractor shall conduct regular inspections of the storm water management system construction. Inspections shall be performed on all areas that have

not had final stabilization, areas used for storage of materials that are exposed to precipitation, structural control measures, locations where vehicles enter and exit the construction site, open manholes and piping that could collect sediment and other controls as outlined in the SWPPP. All inspections shall take place after any rainstorm that is 0.5 inches of rain or greater and once every seven days. These inspections must be documented and written reports prepared that contain the following information:

- (1) The date and location of the inspection;
- (2) Whether construction is in compliance with the approved Storm Water Pollution Prevention Plan;
- (3) Variations from the approved construction specifications;
- (4) Any violations that exist.

(G) Joint Responsibility. Any contractor or subcontractor on a site of construction activity, who is not an owner or operator, but who is responsible under his/her contract or subcontract for implementing a best management practices control measure(s), is jointly and severally responsible for any willful or negligent failure on his/her part to adequately implement that control measure (if such failure causes or contributes to causing the City to violate a water quality standard, the City's NPDES permit, or any State-issued discharge permit for discharges from its MS4).

(H) Final Stabilization. When a site has been finally stabilized and all storm water discharges from construction activities that are authorized by these Rules & Regulations and by the NPDES permit for those construction activities are eliminated, or where the operator of all storm water discharges at a facility changes, the operator of the construction site shall submit to the City's Department of Highways a copy of the NPDES Notice of Termination (NOT) of coverage under a NPDES General Permit for Storm Water Discharges. If the construction activity was performed in a combined sewer area of the City, the Notice of Termination need only be filed with the City of Manchester.

Upon final stabilization of the construction site, the owner (or duly authorized representative thereof) by submission of the NOT written certification to the Director of Public Works is certifying that the site has been finally stabilized. The City may withhold an occupancy or use permit for any premises constructed on the site until such certification of final stabilization has been filed and the Director of Public Works has determined, following any appropriate inspection, that final stabilization has, in fact, occurred and that any required permanent structural controls have been completed.

The operator shall retain copies of any SWPPP, certifications and all reports required by these Rules & Regulations or by the NPDES permit for the site, and records of all data used to complete the NOI, for a period of at least three years from the date that the site is finally stabilized.

The operator shall assure that the City of Manchester's Department of Highways is given two full sets of as-builts of the completed project. These must be received within forty-five (45) days of the submission of the NOT. If these as-builts are not received by the City, then the City may draw funds from any retainage, performance or security bonds to

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have an engineer complete the as-builts from the field notes with all costs being borne by the operator.

Within thirty (30) days of the submission of the NOT the operator's construction site must be cleaned and free of any residual stock piles of materials, hay bales, silt fences or any such BMPs that were used for site erosion and sediment controls. If these are not completed the City may draw funds from any retainage, performance, or security bonds to have a contractor complete the clean up and close out any remaining site stabilization.

(I) Performance Bonds.

- (1) The Department of Highways may, at its discretion, require the submittal of a performance security or performance bond prior to issuance of a permit in order to ensure that the storm water practices are installed by the permit holder as required by the approved Storm Water Management Plan. The amount of the installation performance security or performance bond shall be the total estimated construction cost of the structural BMPs approved under the permit plus any reasonably foreseeable additional related costs, e.g., for damages or enforcement. [Or plus a certain percentage of the total estimated costs.] The performance security shall contain forfeiture provisions for failure to complete work specified in the Storm Water Management Plan. The applicant shall provide an itemized construction cost estimate complete with unit prices, which shall be subject to acceptance, amendment or rejection by the Department of Highways. Alternatively the Department of Highways shall have the right to calculate the cost of construction cost estimates.
- (2) The performance security or performance bond shall be released in full only upon submission of as-built plans and written certification by a registered professional engineer licensed to practice in the State of New Hampshire that the structural BMP has been installed in accordance with the approved plan and other applicable provisions of these Rules & Regulations. The Department of Highways will make a final inspection of the structural BMP to ensure that it is in compliance with the approved plan and the provisions of these Rules & Regulations. Provisions for a partial pro-rata release of the performance security or performance bond based on the completion of various development stages can be made at the discretion of the Department of Highways.

SECTION 5. WAIVERS

- (A) General. Every applicant shall provide for storm water management as required by the ordinance and its Rules & Regulations unless a written request to waive the requirement has been filed with and approved by the Director of Public Works.
- (B) Conditions for Waiver. The minimum requirements for storm water management may be waived in whole or in part upon written request of the applicant, provided that at least one of the following conditions applies:

- (1) It can be demonstrated that the proposed development is not likely to impair attainment of the objectives of these Rules & Regulations.
 - (2) Alternative minimum requirements for on-site management of storm water discharges have been established in a Storm Water Management Plan that has been approved by the Department of Highways.
 - (3) Provisions are made to manage storm water by an off-site facility. The off-site facility must be in place and designed to provide the level of storm water control that is equal to or greater than that which would be afforded by on-site practices. Further, the facility must be operated and maintained by an entity that is legally obligated to continue the operation and maintenance of the facility.
- (C) Downstream Damage, etc. Prohibited. In order to receive a waiver, the applicant must demonstrate to the satisfaction of the Department of Highways that the waiver will not lead to any of the following conditions downstream:
- (1) Deterioration of existing culverts, bridges, dams, and other structures;
 - (2) Degradation of biological functions or habitat;
 - (3) Accelerated streambank or streambed erosion or siltation;
 - (4) Increased threat of flood damage to public health, life or property.
- (D) Land Disturbance Permit Not to be Issued Where Waiver Requested. No land disturbance permit shall be issued where a waiver has been requested until the waiver is granted. If no waiver is granted, the plans must be resubmitted with a Storm Water Management Plan.

SECTION 6. STORM WATER SYSTEM DESIGN AND MANAGEMENT STANDARDS

Storm Water Design or Best Management Practices Manual.

- (A) Adoption. The City adopts as its storm water design and Best Management Practices (BMP) manual the following publications, which are incorporated by reference in these Rules & Regulations as is fully set out herein:
- (1) New Hampshire Department of Environmental Services Sediment and Erosion Control Manual, "Green Book" (also known as the Rockingham County "Storm Water Management and Erosion Control Handbook for Urban and Developing Areas");
 - (2) The City of Manchester's "Standard Specifications for Road, Drain & Sewer Construction";
 - (3) "Innovative Stormwater Treatment Technologies" – Best Management Practices Manual NHDES, May 2002; and
 - (4) "New Hampshire DOT Guidelines for Temporary Erosion and Sediment Control and Storm Water Management" - NHDOT Bureau of Construction.

SECTION 7. INDUSTRIAL ACTIVITY DISCHARGES

All operators of City landfills, hazardous waste treatment, disposal, and recovery facilities and industrial facilities are subject to Section 313 of Title III of the Superfund

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Amendments and Reauthorization Act of 1986 (SARA) 42, USC § 11023; and industrial facilities that the City determines are contributing a pollutant load to the MS4, which are sources of storm water discharges associated with industrial activity shall comply with the following requirements:

- (A) Any operator who intends to obtain coverage for storm water discharge associated with industrial activity under the NPDES General Permit for Storm Water Discharges Associated with Industrial Activity ("the Industrial General Permit") shall submit a signed copy of its NOI to the Director of Public Works at least five (5) days prior to the commencement of the industrial activity at the facility. If industrial activity is already underway upon the effective date of the Storm Water Ordinance, the NOI shall be submitted within thirty (30) days.
- (B) A SWPPP shall be prepared and implemented in accordance with the requirements of the Industrial General Permit or any individual or group NPDES permit issued for storm water discharges from the industrial facility, and with any additional requirement imposed by or under these Rules & Regulations.
- (C) The SWPPP shall be prepared, signed and sealed by a Registered Professional Engineer as outlined in Section 4(B2).
 - (1) Qualified personnel (provided by the operator) shall conduct comprehensive site compliance evaluations as required by Part IV.D.4 of the Industrial General Permit at intervals of no less than once per year. Based on the results of the compliance prevention measures and controls identified in the SWPPP shall be revised as appropriate within two weeks of such evaluation and shall provide for implementation of any changes to the SWPPP in a timely manner, but in no case more than twelve weeks after the compliance evaluation.
 - (2) A report summarizing the scope of the comprehensive site compliance evaluation required by paragraph VI.A.14, personnel making the compliance inspection, the date(s) of the inspection, major observations relating to the implementation of the SWPPP, and actions taken in accordance with necessary and appropriate plan revisions shall be made and retained as part of the SWPPP for at least one year after all storm water discharges from the facility are eliminated and the required NOT has been submitted. The report shall identify any incidence of noncompliance; or, if the report does not identify any incidence of noncompliance, the report shall contain a certification that the facility is in compliance with the SWPPP, the applicable NPDES permit, and these Rules & Regulations. The individual responsible for the comprehensive site compliance evaluation shall sign the report, and it shall be submitted to the City's Director of Public Works within ten days of completion.
 - (3) If the industrial facility is required by Part VI.B.2 of the Industrial General Permit to conduct semi-annual monitoring, a signed copy of each semi-annual monitoring report prepared in accordance with Part VI.D. shall be submitted to the Director of Public Works.
 - (4) By written notice, the Director of Public Works may require any industrial facility identified in accordance with this Section 6 to implement a monitoring program

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that includes the submission of quantitative data on the following constituents; any pollutants limited in effluent guidelines subcategories, where applicable; any pollutant listed in an existing NPDES permit for the facility, oil and grease, COD, pH, BOD5, TSS, Total phosphorus, total Kjeldahl nitrogen, nitrate plus nitrite nitrogen, and any information on discharges required under 40 CFR 122.21(g)(7)(iii) and (iv). The Public Works Director may require written reports of any such monitoring to be submitted to him/her.

- (5) No discharge shall exceed the maximum allowable concentrations as outlined in the New Hampshire Env-Ws 1700 Surface Water Quality Regulations.
- (6) Where all storm water discharges associated with industrial activity that are authorized by the Storm Water Ordinance, and by the NPDES permit for those discharges forms industrial activities, are eliminated, or where the operator of storm water discharges associated with industrial activity at a facility changes, the operator of the facility shall submit to the Director of Public Works a Notice of Termination that includes the information required for Notices of Termination by Part IX of the Industrial General Permit.

SECTION 8. ACCESS AND INSPECTION OF PROPERTIES AND FACILITIES

- (A) The representative of the Department of Highways shall be permitted to enter and inspect properties and facilities at reasonable times as often as may be necessary to determine compliance with these Rules & Regulations.
- (B) If a property or facility has security measures in force, which require proper identification and clearance before entry into its premises, the owner or operator shall make the necessary arrangements to allow access to representatives of the Department of Highways.
- (C) The owner or operator shall allow the representative of the Department of Highways ready access to all parts of the premises for the purposes of inspection, sampling, photography, videotaping, examination and copying of any records that are required under the conditions of an NPDES permit to discharge storm water.
- (D) The Department of Highways shall have the right to set up on any property or facility such devices as are necessary in the opinion of the Department of Highways to conduct monitoring and/or sampling of flow discharges.
- (E) The Department of Highways may require the owner or operator to install monitoring equipment and perform monitoring as necessary, and make the monitoring data available to the Department of Highways. This sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the owner or operator at his/her own expense. All devices used to measure flow and quality shall be calibrated to ensure their accuracy.

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- (F) Any temporary or permanent obstruction to safe and easy access to the property or facility to be inspected and/or sampled shall be promptly removed by the owner or operator at the written or oral request of the Department of Highways and shall not be replaced. The costs of clearing such access shall be borne by the owner or operator.
 - (G) Unreasonable delays in allowing the Department of Highways access to a facility shall constitute a violation of this ordinance.
 - (H) If the Department of Highways has been refused access to any part of the premises from which storm water is discharged, and the Department of Highways is able to demonstrate probable cause to believe that there may be a violation of these Rules & Regulations, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with these Rules & Regulations or any order issued hereunder, or to protect the overall public health, safety, environment and welfare of the community, then the Department of Highways may seek issuance of a search warrant from any court of competent jurisdiction.

SECTION 9. NOTIFICATION OF ACCIDENTAL DISCHARGES AND SPILLS

- (A) Notification. Notwithstanding other requirements of law, as soon as any person responsible for a facility, activity or operation, or responsible for emergency response for a facility, activity or operation has information of any known or suspected release of pollutants or non-storm water discharges from that facility or operation which are resulting or may result in illicit discharges or pollutants discharging into storm water, the City of Manchester's separate storm sewer system, State Waters, or Waters of the U.S., said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release so as to minimize the effects of the discharge.
- (B) Release Reporting. Any person in charge of any facility, vehicle, or other source of any spilling, leaking, pumping, pouring, emitting, emptying, discharging, escaping, leaching, dumping, disposing or any other release of any substances that may flow, leach, enter, or otherwise be introduced into the MS4 or waters of the United States, shall immediately telephone and notify the City of Manchester. Substances include any reportable quantity as outlined in 40 CFR Part 302; any extremely hazardous substance as established under 40 CFR Part 355, any oil that causes a film or sheen or discolors the surface of the water or causes a sludge emulsion to be deposited beneath the surface of the water or any harmful quantity of pollutant.
- (C) Immediate Notification Required. The immediate notification to the Department of Highways or the authorized enforcement agency in person or by phone, or facsimile no later than 24 hours of any incident outlined in Section 9(B), of the nature, quantity and time of occurrence of the discharge. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the Director of Public Works or his duly authorized agent within three (3) business days of the phone or in person notice and shall include the chemical or substance name, exact location of release, time and duration

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of release, estimated quantity and concentration of release, source of release, precautions that should be taken in regards to release, steps taken to contain and /or clean up release and the telephone numbers of the person or persons to be contacted for further information.

If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three (3) years. Said person shall also take immediate steps to ensure no recurrence of the discharge or spill. This information shall also be submitted in written form within five (5) days of the incident unless waived by a representative of the City.

- (D) Liability for Damage and Loss. The notifications required in Section 9(B&C) shall not relieve the responsible person of any expense, loss, damage or other liability which may be incurred as a result of the release. This includes liability for damage to the City, to natural resources, or to any other person or property; nor shall such notification relieve the responsible person of any fine, penalty, or other liability which may be imposed pursuant to the Storm Water Ordinance, these Rules and Regulations, or to state or federal law. Any person responsible for a release shall comply with all state, federal, and any other local requiring reporting, cleanup, containment, and any other appropriate remedial action in response to the release. The responsible person shall reimburse the City for any cost incurred by the City in responding to the release.

Failure to provide notification of a release as provided above is a violation of the City of Manchester's Storm Water Ordinance.

SECTION 10. VIOLATIONS, ENFORCEMENT AND PENALTIES

- (A) Violations. It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of the City's Storm Water Ordinance or these Rules & Regulations. Any person who has violated or continues to violate these provisions may be subject to the enforcement actions outlined in this section or may be restrained by injunction or otherwise abated in a manner provided by law.

In the event the violation constitutes an immediate danger to public health or public safety, the Department of Highways is authorized to enter upon the subject private property, without giving prior notice, to take any and all measures necessary to abate the violation and/or restore the property. The Department of Highways is authorized to seek costs of the abatement as outlined in Section 10(E).

- (B) Notice of Violation. Whenever the Department of Highways finds that a violation of the ordinance or these Rules & Regulations has occurred, the Public Works Director or designee may order compliance by written notice of violation.
- (1) The notice of violation shall contain:

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- (a) The name and address of the alleged violator;
 - (b) The address when available or a description of the building, structure or land upon which the violation is occurring, or has occurred;
 - (c) A statement specifying the nature of the violation;
 - (d) A description of the remedial measures necessary to restore compliance with this ordinance and a time schedule for the completion of such remedial action;
 - (e) A statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed; and,
 - (f) A statement that the determination of violation may be appealed to the Highway Commission by filing a written notice of appeal within five (5) days of service of notice of violation.

(2) Such notice may require without limitation:

- (a) The performance of monitoring, analyses, and reporting;
- (b) The elimination of illicit discharges and illegal connections;
- (c) That violating discharges, practices, or operations shall cease and desist;
- (d) The abatement or remediation of storm water pollution or contamination hazards and the restoration of any affected property;
- (e) Payment of costs to cover administrative and abatement costs; and,
- (f) The implementation of pollution prevention practices.

(C) Appeal of Notice of Violation. Any person receiving a Notice of Violation may appeal the determination of the Department of Highways. The notice of appeal must be received within five (5) days from the date of the Notice of Violation. Filing of an appeal does not relieve the owner from full compliance with the remedial actions outlined in the Notice of Violation. Hearing on the appeal before the Department of Highways, Storm Water Appeals Committee shall take place within thirty (30) days from the date of receipt of the appeal. The decision of the Committee shall be final.

(D) Enforcement Measures After Appeal. If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, then representatives of the Department of Highways may enter upon the subject private property and are authorized to take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the government agency or designated contractor to enter upon the premises for the purposes set forth above.

(E) Costs of Abatement of the Violation. Within ten (10) days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs. The property owner may file a written protest objecting to the assessment or to the amount of the assessment within fifteen (15) days of such notice. If the amount due is not paid within thirty (30) days after receipt of the notice, or if an appeal is taken, within five (5) days after a decision on said appeal, the charges shall

become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment.

Any person violating any of the provisions of this article shall become liable to the City of Manchester by reason of such violation.

- (F) Civil Penalties. In the event the alleged violator fails to take the remedial measures set forth in the Notice of Violation or otherwise fails to cure the violations described therein within two (2) days, or such greater period as the Department of Highways shall deem appropriate, after the Director of Public Works or designee has taken one or more of the actions described above, the Public Works Director may impose a penalty not to exceed \$10,000 (depending on the severity of the violation) for each day the violation remains unremedied after receipt of the notice of violation.
- (G) Criminal Penalties. For intentional and flagrant violations of the Storm Water Ordinance or these Rules & Regulations, the Director of Public Works may issue a citation to the alleged violator requiring such person to appear in court to answer charges for such violation. Upon conviction, such person shall be punished by a fine not to exceed \$1,000 for each day the violation has occurred, or imprisonment for up to sixty (60) days or both. Each act of violation and each day upon which any violation shall occur shall constitute a separate offense.
- (H) Remedies Not Exclusive. The remedies listed in the Storm Water Ordinance and these Rules & Regulations are not exclusive of any other remedies available under any applicable Federal, State or local law and the City of Manchester may seek cumulative remedies.

The City of Manchester may recover attorney's fees, court costs, and other expenses associated with enforcement of this ordinance, including sampling and monitoring expenses.

SECTION 11. ELIGIBILITY

- (A) Permit Eligibility. Permit eligibility is limited to discharges from "large" and "small" construction activity or as otherwise designated by the EPA. This general permit contains eligibility restrictions, as well as permit conditions and requirements. Permittee may have to take certain actions to be eligible for coverage under this permit. In such cases, permittee must continue to satisfy those eligibility provisions to maintain permit authorization. If the permittee does not meet the requirements that are pre-condition to eligibility, then the resulting discharges constitute unpermitted discharges. By contrast, if permittee does not comply with the requirements of the general permit, permittee may be in violation of the general permit for their otherwise eligible discharges.
- (B) Combined Sewer Drainage Systems. Discharges from "large" and "small" construction activity or as otherwise designated by the EPA that flow into a combined sewer system are

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not covered by the EPA's Phase II Storm Water Program. A NOI does not need to be submitted to the EPA nor does the owner/operator have to receive acknowledgement from the EPA prior to the start of construction activity.

The City of Manchester is requiring in these instances that all other conditions as outlined in the Storm Water Ordinance and these Rules & Regulations shall apply to all construction activity as defined in Section 4, with the exception of submitting the NOI to EPA Region I. The requirements for determination of no impact status as outlined in the Endangered Species Act and Historic Preservation Act, along with the completion of a Storm Water Pollution Prevention Plan as outlined in the NOI submission is still a mandatory submission to the City of Manchester and must follow the conditions as outlined in the EPA's NOI.

EPA reissued the Construction General Permit (CGP) on July 1, 2003. The reissued CGP now covers both the Phase I large construction sites greater than five acres and "Storm Water Associated with Small Construction Activity," which includes construction sites from one to five acres (or smaller than one acre if part of a larger "common plan of development or sale" that totals one acre). The permit contains conditions to protect endangered species and historic properties and requires the owner and operator of the construction site to, among other things:

- Develop and implement a Storm Water Pollution Prevention Plan (SWPPP).
- Post a visible public notice at the main entrance of the construction site (or if unfeasible, at a local public building) containing confirmation of permit coverage and details on where the SWPPP may be viewed.
- As part of the SWPPP, develop a site map showing surface waters, disturbed areas, best management practices (BMPs), etc.
- Have "qualified personnel" inspect all erosion and sediment control BMPs, maintain BMPs after storm events and keep records in the SWPPP of all inspections and maintenance performed.
- Control wastes, such as discarded building materials, concrete truck washout, and sanitary wastes.
- File a Notice of Termination (NOT) form when the construction site is stabilized and revegetated.